Submission
No 47

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

Organisation: Law Society of NSW

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Marcie Payne
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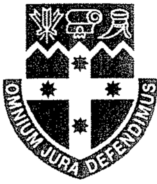

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Human Rights Committee

Inquiry into community based sentencing options

By the Standing Committee on Law & Justice

1 September 2005

The Law Society of New South Wales
Human Rights Committee

Submission
to the
Inquiry into community based sentencing options
by the
Standing Committee on Law & Justice

Introduction

- What is available?
- What are the advantages and disadvantages of community based sentencing options in rural and remote communities:
- Who is eligible?

These are the questions this paper will attempt to address.

In rural areas perpetrators are reliant on the whim of the Local Court Magistrates.

- Are they innovative?
- Will they think laterally?
- If they think outside the square, will it be endorsed should the perpetrator move geographical location?
- Is it available in another area?

Because there is little if any portability of programs due to the ad hoc selection in areas even if magistrates are innovative, they are often forced to apply only options that have been tested and tried before.

This is not due to any perceived public safety but rather as previously stated the ad hoc availability of programs.

These programs are dictated to by perceived suitability by sentencing reports.

CSO - people are excluded by the fact that they have drug issues.

This is being addressed in indigenous communities by looking at wholistic approaches such as circle sentencing which is addressing the drug issue; as seen in case study one in the Crime Prevention – Circle Sentencing Factsheet attached.

Home and periodic detention – although these are often not seen as suitable due to excessive perceived cost of the programs in rural and remote areas.

1. This works in rural areas as it is harder to remain anonymous within the community.
2. Partnerships between already established services in rural and remote areas is already established and appears to work.

The inhibiters are effective education, training and co-ordination.

This is reflected in programs established such as:

- *Goorie Access Program to Education* (attached)
  Although this program has not been set up specifically to target recidivism in court at is addressing the issue of crime prevention.

- *Youth on the Go* – a program which has a partnership between Police (PCYC) a local community service and the TAFE that has been established for several years (1999) in the Coffs Harbour area and is responsible for a 76 to 86% reduction in the crime rate. This program won a National Crime Prevention Award in 2003 and engages offenders in a positive way.

However, both these programs rely on an ability to pick up, provide access to a meal and drop off as part of their success and the cost factors come in these issues.

An access to train future workers also factors in as extremely necessary to overcome burnout of workers who establish programs and ongoing feasibility of the program continuity.

One of the factors that create the ad hoc availability of programs is that the person commencing the program burns out and their replacement, if any, has not been adequately trained to run the program effectively.

Other programs commenced are:

- Making Messages
- Date Rape
- Aboriginal Art – Domestic Violence
- Positive Relationships
- Love Bites
- TOPS – for children

- Benelongs & Naminjira Haven

Success or failure first depends on whether magistrates perceive these are programs they can be using or whether they are even aware of them. The Human Rights Committee of the Law Society of New South Wales is endeavouring to establish seminars for lawyers that provide them with information about what may be available so they can make submissions to Magistrates based on this. It should be pointed out, however, that these seminars need to be repeated regularly as:

1. Lawyers change the areas of law in which they practise and move geographically;
2. Programs evolve and change to suit the needs of the community they serve.

Another program established in the Court system has been the provision of a Court Liaison Clinician. A brief outline of this role in the Kempsey area has been provided to me and is attached.

This program relies on the right person being appointed, that they know their community services for referral purposes, and that they can work closely with the judiciary in finding options that can be used and are in the public interest.

For the last twelve months a pilot program has been operating in the Port Macquarie area. This has involved a partnership between the Police, Ambulance Service and Health Commission and has been successful in reducing the numbers of people attending Courts for issues that are more adequately addressed by Health, more specifically Mental Health.

This pilot program ended on 31 August 2005. There is a fear that, without ongoing funding for education, specifically of officers of the Police Service, its benefits will be lost as so many others before it have been because the relevant people have not been adequately trained or educated.

As each area has a Local Area Police Commander the program requires that each Commander has access to the knowledge of how programs work and is provided with the resources necessary to give their staff adequate training in its use.

A submission by another member of the Human Rights Commission which addresses the adequate provision of service and utilization of already operating programs is attached for your assistance.

Mr Sean Bogan has been unable to attend the Inquiry to present the information himself as he is overseas but requested that I provide his contact details.

Mr Sean Bogan Email: sabogan@hotmail.com
Tel : 0405 405 585

Another program relied upon when dealing with the provision of community based programs is the Mediation Services provided by Community Justice Centres (brochures attached).

This submission also endorsed the sentiments reflected in the NSW Aboriginal Justice Plan, which addresses issues specifically relating to Indigenous issues and looks at programs such as:

- Night Patrols
- Two Ways Together

In addition, it is noted that there is a distinct lack of programs to address women and crime prevention which is becoming an issue in indigenous communities.

The lack of coordination of services throughout the rural and remote areas reflects in a failure to respond to communities' needs as required or to provide those needs that are dictated.

Another issue that has affected offenders in rural and remote areas is when Magistrates give lengthy periods in a bond to remind the offender of the seriousness of the offence, but this is done usually because the Magistrate knows the offender. If a bond is breached the offender returns to the court which allows the Magistrate to again reinforce the seriousness of the offence and the penalties that can be put upon them, for example, incarceration. If a different Magistrate deals with the breach this may create a problem, especially if they incarcerate the offender who may then serve a lengthy time in gaol rather than the shorter time provided by the *Sentencing Act*.

Many of the indigenous community have driving offences and drug issues. This precludes them from many of the options available such as CSO, Home Detention and Periodic Detention, even if they are available.

Rural and remote communities differ from metropolitan areas and the innovative approaches employed by Magistrates in some areas has reflected the community's attitudes and public

policy to a degree, but this is ad hoc and requires more portability of established programs. If programs were more portable they could evolve while at the same time providing the basis for consistency and co-ordination throughout the State.

Thank you for opportunity to provide you with some information on this subject. Should you require any further information or wish to discuss further the issues and possible remedies, please contact the Human Rights Committee of the Law Society of New South Wales or myself.

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Submission to the Inquiry Into Community Based Sentencing Options, Standing Committee on Law and Justice

INTRODUCTION

I wish to thank the Committee for the opportunity to make these short submissions. I am a solicitor with the Legal Aid Commission of New South Wales and a member of the Human Rights Committee of the Law Society of New South Wales. I am currently based at Burwood Local Court where I appear for clients granted Legal Aid in criminal matters.

NEED FOR REFORM

At present, as the Committee is aware, sentencing courts lack the power to sentence offenders to certain community-based alternatives to full-time custody unless the Probation and Parole service assesses the offender as eligible for those alternatives. A court may make a community service order,[1] or a home detention order,[2] only if an assessment report by a Probation and Parole officer states that, in the opinion of the person making the assessment, the offender is a suitable person for such an order. While sentencing courts technically have the power to make periodic detention orders even where the offender is assessed by a Probation and Parole officer as unsuitable for such an order,[3] nevertheless it is an exceptionally rare event for a court to depart from Probation and Parole's conclusions: Before a court can make a periodic detention order, the court must be satisfied that the offender is a suitable person for such an order,[4] and in making such an assessment the court is required to have regard to the

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[1] Section 86(4), *Crimes (Sentencing Procedure) Act 1999*
[2] Section 78(4), *Crimes (Sentencing Procedure) Act 1999*
[3] Section 66(4), *Crimes (Sentencing Procedure) Act 1999*
[4] Section 66(1)(b), *Crimes (Sentencing Procedure) Act 1999*

contents of an assessment report[5] and relevant evidence from a Probation and Parole officer.[6] In the past twelve months I have represented roughly five hundred clients in sentencing matters where those clients had been assessed by Probation and Parole. I have never seen a single instance where a court handed down a periodic detention order despite an assessment from Probation and Parole that the offender was unsuitable for such an order.

Offenders are therefore reliant upon a positive assessment of suitability by Probation and Parole before they may lawfully be given a community service or home detention order, and before they have any genuine chance of being given a periodic detention order.

In my experience, pre-sentence reports by Probation and Parole routinely assess offenders as unsuitable for community service and periodic detention (and home detention in the case of home detention assessments) on the sole basis that the offender suffers from some form of disadvantage or disability. For example, every hearing impaired client that I have represented at Burwood Local Court over the last twelve months has been assessed as unsuitable for community service and periodic detention solely because of their hearing impairment. In each case the assessment report indicated that there were no further placements available for hearing impaired persons. Offenders are routinely assessed as unsuitable for either community service or periodic detention wherever they: (1) have a mental illness; (2) have an intellectual disability; (3) have a physical disability; (4) are elderly (and are believed to have

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[5] Section 66(2)(a), *Crimes (Sentencing Procedure) Act 1999*
[6] Section 66(2)(b), *Crimes (Sentencing Procedure) Act 1999*

potential difficulties with memory retention); (5) have limited English speaking skills; or (6) do not have permanent residency.

I have represented a significant number of clients who, in the ordinary course of events would have received a periodic detention order, but because of a negative assessment from Probation and Parole due to their disability or disadvantage, have received a full time custodial term instead. I would estimate that there are a significant number of offenders in full time custody in New South Wales who have been sent to gaol full-time (as opposed to being given a community-based alternative) for no other reason than that they suffer from some form of disability or disadvantage.

Probation and Parole officers routinely assess offenders with disability or disadvantage as unsuitable for community-based sentencing options, even where there is no concrete reason to conclude that the individual would fail to turn up to community service or periodic detention, or fail to complete their sentence satisfactorily. Almost every offender that I have represented who suffers some form of disability or disadvantage is assessed as unsuitable for community-based sentencing options by Probation and Parole because of that disability or disadvantage.

The tendency of Probation and Parole officers to assess individuals with disability or disadvantage as unsuitable for community-based sentencing options is magnified by the fact that Probation and Parole assessments are non-appealable. Although a Probation and Parole officer may be cross-examined on the content of his or her assessment, if the Probation and Parole officer remains resolute that the offender is

unsuitable for a community service order or a home detention order, the sentencing court still lacks the power to make such an order.

A LACK OF RESOURCES IS NOT THE ISSUE

I do not believe that the solution to the problem outlined above lies in expanding the resources of the Probation and Parole service. The extent to which the Probation and Parole service routinely assesses offenders as unsuitable for community-based sentencing options wherever there is some form of disability or disadvantage suggests that the problem is an attitudinal one rather than a resource issue. Probation and Parole officers tend to reject any offender that they feel might have any kind of special needs above and beyond those of the ordinary offender. It is to be envisaged that even a significant increase in the budget of Probation and Parole would only translate into additional placements in community-based sentencing options for a narrow class of persons – for e.g. those in certain rural areas, or those with hearing impairment. There would always be significant classes of persons who Probation and Parole would continue to assess as unsuitable for community-based sentencing options.

THE SOLUTION

The Probation and Parole service performs an important function in the criminal justice system in New South Wales, but their role in the process of sentencing is misplaced. In my submission, the solution to the problem outlined above lies in amending the *Crimes (Sentencing Procedure) Act* so as to remove the role of Probation and Parole officers in the determination of sentence. Sentencing should be a matter solely for the courts, and should be based upon the objective criminality of the

act and the subjective circumstances of the offender in so far as they relate to culpability. The current process of limiting the court's sentencing options by reference to a Probation and Parole report offends against a number of fundamental sentencing principles:

1. Probation and Parole officers make their assessments principally in light of the availability of resources. This is not a relevant criterion in the sentencing process;
2. The lack of any mechanism of appeal in relation to Probation and Parole assessments entails a denial of natural justice and procedural fairness;
3. The assessment of offenders as unsuitable for community-based sentencing options because of disability or disadvantage is a rather concerning form of direct discrimination.

In my submission, the courts should determine the appropriate sentence, judicially and in light of relevant sentencing principles. While Probation and Parole has an important function to play in authoring pre-sentence reports which detail factors such as the subjective circumstances of the offender and the attitude of the offender to the offence, Probation and Parole should not play any role in limiting the courts' sentencing options. If the court sentences the offender to a community-based sentence, it would then become the duty of Probation and Parole to find a placement for the offender.

Probation and Parole officers commonly assert that those with limited English-speaking skills cannot be accommodated in periodic detention because the Probation

and Parole service lacks interpreters who can explain to offenders their obligations under a periodic detention order. For this reason, non-English speakers are routinely assessed as unsuitable for community-based sentencing options including periodic detention. If, however, the Probation and Parole service was *required* to accommodate non-English speakers in periodic detention, it is hard to imagine that this would create any insurmountable difficulties. Obligations could be explained to offenders through the use of the Telephone Interpreter Service, or through pre-printed material in various languages. Once in custody, any difficulties in communicating with non-English speaking offenders would be no different to the difficulties that arise in the context of full-time custody.

It would be a mistake to conclude that the lack of community-based sentencing options for non-English speakers can be remedied by increasing the budget of Probation and Parole. Budgetary increases may result in Probation and Parole hiring interpreters in a number of commonly spoken languages (e.g. Arabic or Vietnamese), but Probation and Parole would not hire interpreters in every language. Speakers of less common languages would continue to be assessed as unsuitable for community-based sentencing options by Probation and Parole. Given the many forms of disability and disadvantage that lead Probation and Parole to assess offenders as unsuitable for community-based sentencing options, even a significant budgetary increase would only lead to a limited improvement in the situation.

In my submission, Probation and Parole sees barriers to accommodating people with disability and disadvantage where no such barriers exist. I believe that if the Probation and Parole service were *required* to accommodate offenders in community-based

sentencing options they would find creative ways of doing so. Continuing to give Probation and Parole a role in limiting the courts' sentencing options keeps in place non-existent barriers to accommodating people with disability and disadvantage.

CONCLUSION

I submit that the NSW Parliament should amend the *Crimes* (*Sentencing Procedure*) *Act* so as to:

1. Remove the role of Probation and Parole in assessing the suitability of offenders for community-based sentencing options; and

2. Provide that if the court accedes to a Probation and Parole application to revoke a community service, periodic detention or home detention, order on the basis that the Probation and Parole service was genuinely unable to accommodate the offender due to his or her disability or disadvantage, then the court cannot impose a subsequent order more severe than the order revoked.

Sean Bogan

Solicitor

Member of the Human Rights Committee, Law Society of New South Wales

Marcia,

With reference to our telephone conversation dated 17th Aug 05, I have indicated, some of the options that I have suggested the court consider other than for defendants being placed in custody or, to lower the effects of the burden of sentencing on clients who have mental health issues.

It is my belief (not being legally qualified) that the law used to divert defendants from the Justice System to the Health System includes the Bail Act (conditions of bail), Mental Health (Criminal Procedures) Act 1990 (Sections 32 and 33) and the Mental Health Act of NSW 1990. Together with the general discretion of the Judicial Officer.

Mental Health (Criminal Procedures) Act

Options under the Mental Health (Criminal Procedure) Act 1990. Part 3 – Summary proceeding before a Magistrate relating to persons affected by mental disorders. Under the sections 32 and 33 the mental health client or person as a mental health client can be diverted from Criminal proceedings, for a period of time to allow assessment and treatment of identified mental health issues. Once the client has received appropriate care and treatment, is returned to the Justice System to complete the court procedures. This is achieved by application to the Court for consideration for adjournment, bail and the Court's sanction whilst getting treatment. As a result the client returns to Court, maybe some adjournments later in a more stable mental state, able to accept sentencing more readily. Also provision to dismiss, adjourn, grant bail or do what the Court sees appropriate.

Under this Act the Courts when finalising, can look at the inclusion of a "Community Treatment Plan" which has the support of the local Health Care Agency, or as conditions of a bond, for a period determined by the Court. Should the defendant breach the treatment plan, the health care agency is responsible for notifying the court of breach of bond or plan resulting in the defendant being brought back in front of the same magistrate that ordered the Bond. Problems associated with this option in the Port Macquarie and Kempsey areas is the lack of resources in the form of mental health workers able to case manage persons and to offer ongoing case management for extend periods of time depending on length of Bond. As a result this option is very rarely considered in this area. In short , under the Act, the Court can dismiss or discharge with conditions or alternatively deal with the matters according to law and still require Mental Health support.

NSW Mental Health Act 1990

Whereas under the Mental Health Act 1990, provisions have been allocated for the Health Care Agency to handle Community Treatment Orders (CTO) in the Mental Health System. For a person to be placed on a CTO, the person is required to go though the scheduling procedure for detainment as an involuntary patient. Following an appropriate assessment by a medical practitioner or authorised person that indicates involuntary treatment in a gazetted Hospital a Schedule 2 is completed, starting the procedure of care ending up in the result of the patient being released from Hospital under the supervision of a CTO. For this process to be enacted in the Court setting, requires the Court's grant adjournment and bail for the client to be accompanied to appropriate mental health facilities, so for the assessment to be conducted. This procedure I feel is most appropriate as it requires the defendant to be assessed, hospitalised, treated and provision for follow up once discharge is made, ie on a CTO all under the supervision of the Mental Health Care Agency. The person can be assessed in custody but this is generally a slow clumsy and unrewarding process.

Bail Act

As conditions of Bail, the defendant agrees to consult his or her GP with the view to obtaining treatment for identified mental health issues. Example, a person attends court and issues of mental health such as depression are identified by the Court Clinician, bail maybe granted to allow that person to seek appropriate care and treatment. Monitoring of the progress of that person is reported back to the Court by the next court hearing. Treatment may include hospitalisation in a voluntary ward, and or commencement of medication or referral onto other support services such as relationship counselling, and private counsellors. One program used regularly is the "Out Comes for Better Mental Health" sponsored by the Division of GPs. This program is aimed at providing 6 free counselling CBT (Cognitive Behavioural Therapy) based sessions for people with depression. A major problem, insufficient ongoing funding to provide more places. The problem with this option is when the defendant is not granted Bail, for many different reasons, such as being homeless or has already breached Bail conditions, or the community is seen at risk of the defendant is bail is granted. Option suggested to the Court then is for an application for assessment care and treatment whilst on remand.

In some situations conditions of bail may include referral to Community based and government based services such as Mental Health Services, Drug and Alcohol Services, Head Injuries Services, Department of Housing, Aged and Disability Services, emergency accommodation on a self referral basis can also be suggested, for assistance with health or crisis issues. This is particularly important with dual diagnosis patients.

The defendant may agree to see the MERIT Program staff for assessment onto their diversionary program involving close case management and coordination of treatment and rehabilitation for Substance abuse issues. Aimed at lowering reoffending caused by the need to feed their addiction.

The defendant may agree to attend the TOP (Traffic Offenders Program) during adjournments. Aimed at the defendant having access to educational and support services that may help to provide drink driving or driving offences. As part of the program all participants are screened for D/A and mental health issues.

The defendants may agree to attend the local culturally focused Men's group, focusing on DV, anger and general support issues.

Needs (Wish list)

Crisis accommodation, especially for estranged males. The access to a "bail House" where homeless men or women can be accommodated rather than being bail refused due to not having accommodation. Supervised accommodation able to provide to the Court a satisfactory level of supervision to provided confidence to Court.

Court support workers, legal representatives for defendants presently not covered by Legal aid. For example, Defendants in AVO matters or DUI driving matters.

Culturally focused "Circle Sentencing" as trialed on the South Coast.

Ongoing funding and support for projects such as Jack Beetson's "Linga Longa" – provision of crisis accommodation with an aboriginal cultural focus. Incorporating support agencies support, such as mental health, drug and alcohol, physical health screening and access and facilities for family visitation in appropriate surroundings. .

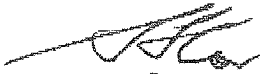
Mental Health Police Liaison Clinician – based with the local police – aimed at provision of liaison, education and consultation between police and mental health and health support services. Requirement for a highly skilled and motivated Clinician.

Aboriginal Court Liaison Clinician – focusing on co ordination of "Circle Sentencing", access to Aboriginal Focused accommodation and support services – (Needs to be a very skilled clinician).

An increased of Mental Health Facilities in the Community to allow more appropriate placements under specialised mental health care - Especially in "Dual Diagnosis Units" and forensic Mental Health.

A Statewide Protocol which includes the Judiciary, Police, Court Clinicians, Mental Health Workers, CEO's of hospitals in rural areas, ambulance and representatives of carers. So that when a crisis is identified cares and police have confidence in the "the system" so that it's not only deals with the mental health issues but affords safety for the community. This could include carers to notify that an emergency situation exists will confidence that the emphasis will be on health care rather than imprisonment. Such a Protocol would benefit from the inclusion in or acquiescence by the Chief Magistrate. An important integral part of the proceedings and necessary when assisting the Court to ultimately determine the appropriate way it disposing with a matter – having regard to both the accused and the community.

Marcia, I hope this is what you require.



Phil Scott

Court Liaison Clinician

Crime Prevention Division
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department of nsw

Crime Prevention

2005 Factsheet

Circle Sentencing

Enquiries 02 9228 8307

Circle Sentencing is an alternative sentencing court for adult Aboriginal offenders. The Circle has the full sentencing powers of the court.

It directly involves local Aboriginal people in the process of sentencing offenders, with the key aims of making it a more meaningful experience for the offender and improving the Aboriginal community's confidence in the criminal justice system.

Originally developed and implemented by the Aboriginal Justice Advisory Council, Circle Sentencing is now managed by the Attorney General's Department of New South Wales Crime Prevention Division.

Program Description

Circle Sentencing involves taking the sentencing process out of its traditional court setting and into the community. Here, community members and the Magistrate sit in a circle to discuss the offence and the offender.

The circle will also talk about the background and effects of the offence and develop a sentence that is tailored for that offender.

Circle Sentencing involves victims of offences and respected community people as well as offenders' families.

Circle Sentencing complements existing diversionary schemes and provides a further sentencing format for NSW Magistrates.

It also allows greater Aboriginal involvement in the criminal justice process, particularly at the community level, and aims to increase Aboriginal satisfaction with the operations of the criminal justice system.

As set out in the Criminal Procedure Amendment (Circle Sentencing Program) Regulation 2003, Circle Sentencing aims to:

- establish a sentencing format which allows for Aboriginal community involvement;
- establish a sentencing format which allows for Aboriginal community control,
- empower Aboriginal communities in the sentencing process,
- increase Aboriginal community confidence in the sentencing process,
- reduce barriers between Aboriginal communities and courts,
- provide more appropriate sentencing options for Aboriginal offenders,
- provide effective support to Aboriginal defendants when completing sentences,
- provide support to Aboriginal victims of crime,
- reduce offending in Aboriginal communities.

The program is now operating in Nowra, Dubbo, Walgett and Brewarrina and is expanding to Bourke, Lismore, Armidale, Kempsey and Western Sydney in 2005.

A Circle Sentencing Project Officer is funded in each site where Circle Sentencing operates. The Project Officer is responsible for organising each Circle Sentencing Court, liaising between the Court and the Community, and providing a follow-up assessment of each participant.

Outcomes

When Circle Sentencing was piloted in Nowra, only one of 25 offenders were subsequently re-arrested. In Dubbo, 80% of offenders who participated in Circle Sentencing were not charged with further offences.

Evaluation

A comprehensive evaluation will be conducted in 2005 and 2006 to measure the program's outcomes. Consideration will then be given to further expanding Circle Sentencing to other sites in New South Wales.

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Case Study One

An Aboriginal man with two young children was charged with assault and maliciously damaging property. The offender had an alcohol problem and when his case was discussed in the circle it became apparent that most of his convictions had occurred while he was under the influence of alcohol.

The offender discussed that he had wanted to go into an alcohol program but was concerned about what would happen to him. One of the circle participants had successfully completed an alcohol addiction program and was able to discuss with the circle and the offender what was involved and how she managed to complete it.

The offender spoke about the effect that the recent high number of deaths in the Aboriginal community had on him, causing him to drink more. The offender also spoke about his children and how hurtful it was to be away from them and continually in trouble.

Circle members encouraged the offender to be proud of and respectful to his Aboriginal heritage and emphasised that what he had done was a serious breach of Aboriginal law.

The victim of the offense discussed the emotional impact the assault had on him and was able to talk about how the assault had exacerbated other problems in his life.

The circle emphasised the strength that existed in the offender's family, and the importance of the offender seeking help from his family when he needed it.

The offender is an artist and discussed the positive effects painting has for him. The circle discussed possible employment opportunities and income generation through art.

Sentence

6 months Home Detention and 9 months good behaviour bond - conditions he complete anger management course through Probation and Parol provisions with the supervision of his Aunty.

Since circle sentencing, the offender has refrained from drinking alcohol and is employed (for the first time in his life) in a small business owned by the local Aboriginal community.

He has continued to paint and has sold at least three paintings. He has also re-established a relationship with his children and is receiving advice on fathering from local male elders.

After the circle the offender stated that the room where the circle was held was the same room where he committed his first offense and for him his offending life had come full circle.

Case Study Two

An Aboriginal man had been attending a party where he had become abusive, was threatening other Aboriginal people and assaulted one victim. The family hosting the party called the police who agreed to take him home. He abused and assaulted the police officer on entering his home.

The police officer had a close relationship with the offender's family, particularly with his Grandmother. The circle discussed these relationships and stressed that the offender's actions had brought shame on his family, and particularly his grandmother. The offender expressed a great deal of remorse about the shame he had brought on his Grandmother.

The circle discussed the offender's health, as he has some slight brain damage as a result of a previous assault. The circle learnt that the offender had been taking the wrong medication and it reacted with alcohol to make him violent. One circle member volunteered to accompany the defendant to a psychiatrist to re-assess his medication.

The elders in the circle stressed that violence was not part of Aboriginal culture and that the offender's violent action was disrespectful to his culture and traditional Aboriginal law.

The circle and police present at the meeting discussed relations between the Aboriginal community and police. They resolved to discuss ways to improve those relations.

The other assault victim told the circle about how it hurt her to be treated that way. She also described a number of other incidents where she had been the victim of an assault. The victim was well known in the community, however it was the first time she had spoken about the assaults and her experiences.

The circle members formed a small group and assisted her in getting victims counselling and in making a victims compensation application. The victim had also developed an alcohol problem as a result of her experiences, and the group has helped her enter an alcohol treatment program.

Sentence

6 months and 1 week suspended sentence - elders recommend he maintain contact with his elders and learn about his culture

Elder men on the circle agreed to teach the offender aspects of traditional Aboriginal men's law and to assist him to better appreciate his culture.

Since circle sentencing, the offender has been taking his correct medication and is completing his sentence satisfactorily.

Both men have gone from strength to strength since Circle Sentencing and are now seen as role models in their communities.

For further information contact:

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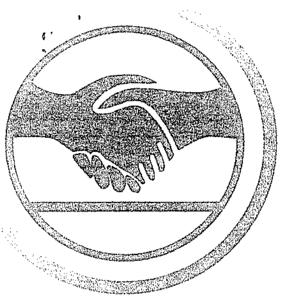

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Email: cjc_southern@agd.nsw.gov.au

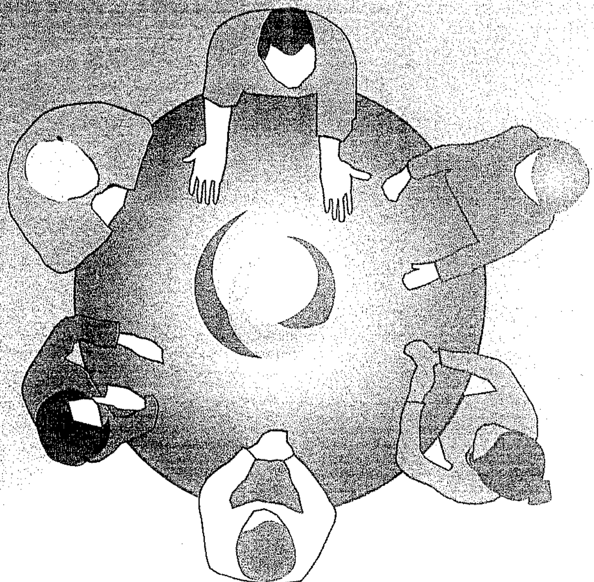
Sydney CJCs
Ground Floor Civic Tower
66-72 Rickard Road
Bankstown NSW 2200
Phone: (02) 9790 0656
Fax: (02) 9796 3258
Email: cjc_sydney@agd.nsw.gov.au

Western CJCs
Level 1, 311 High Street, Penrith 2750
Phone: 1800 252 736 or (02) 4732 1933
Fax: (02) 4731 3578
Email: cjc_western@agd.nsw.gov.au

Dealing with Conflict?

Community Justice Centres

MEDIATION & CONFLICT MANAGEMENT SERVICES



Community Justice Centres
Attorney General's
department of nsw

What do Community Justice Centres do?

Community Justice Centres (CJCs) provides mediation and conflict management services to help people resolve their own disputes. Our service is FREE, confidential, voluntary, timely and easy to use.

Mediation sessions at CJCs are conducted by two impartial, trained mediators who help people to understand each other's point of view and to work together to reach an acceptable agreement.

A wide range of disputes are suitable for mediation including:

- neighbours
- families
- business
- civil and small claims matters
- workplace
- incorporated associations
- between and within communities or associations

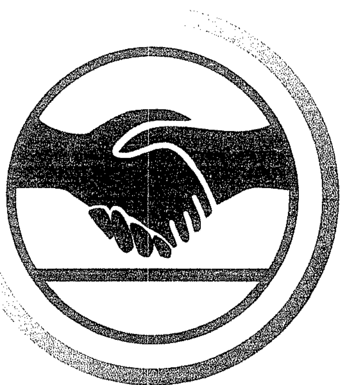
If you're not sure, please contact our staff.

What happens in mediation?

The mediators' role is to facilitate discussion so that people can reach their own common sense solution to their dispute.

The process typically takes between 2 and 4 hours and generally follows these steps:

- Mediators and the people involved introduce themselves and mediators explain the process and "ground rules" for the mediation.
- Each person in turn outlines their concerns and each person is listened to without interruption.
- Mediators encourage and facilitate discussion between the people on issues they have identified.
- Mediators see each person privately, while the other has time to think about their options.
- They are then brought back together and encouraged to negotiate future arrangements.
- If all agree, mediators write up an agreement and give a copy to each person as a record of what was decided.



Mediation provides a safe and informal environment for people to talk to each other to sort out problems.

Over 80% of mediations result in an agreement being reached. People are more committed to the outcome because they take part in the decision making.

Even if agreement cannot be reached there has been the opportunity to clarify the issues and understand each other's point of view.

You can contact us directly by phone, fax, letter or email.

Our staff will listen to your concerns and will advise you immediately if we can help you.

If we can help you, our staff will ask you for information about you, your concerns and the other person/s involved.

We will then contact the other person/s and encourage them to participate in a mediation session.

There are no waiting lists. Mediation sessions are arranged at times that suit everyone and are held at our regional office or a place near you.

So next time you or someone else in your community wants to argue the point call the Community Justice Centres office nearest to you and tell them you want the services of an Aboriginal Mediator who will come to your community.

Remember CJCs Mediation:

- is FREE,
- has NO waiting lists and
- uses Mediators and Venues HANDY to you

How to contact CJCs

Northern CJCs
Phone: 1800 990 777

Western CJCs
Phone: 1800 252 736

Southern CJCs
Phone: 1800 650 987

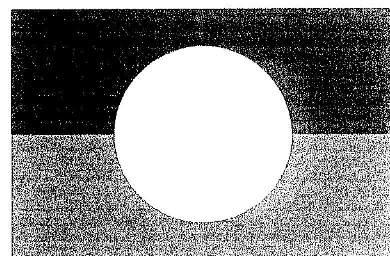
Sydney CJCs
Phone: (02) 9790 0656

Email: cjc_info@agd.nsw.gov.au

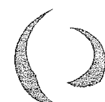
Website: www.cjc.nsw.gov.au

design by MLC Powerhouse Design Ph: 9692 9222

Blewin' with Sumwun?



Aboriginal mediators are available to help you with...



Community Justice Centres
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..Conflicts involving:

yourself and another person

your family and another family

your mob and another mob

what's happened in the past

Apprehended Personal Violence Orders (APVOs)

Family law problems

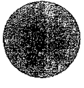
neighbours and clans

workplace

non-Aboriginal people

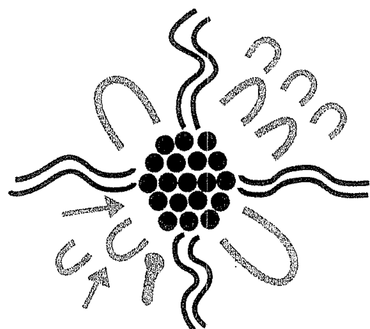
money matters

and many other types of disputes just phone up and ask.



What is Mediation?

Mediation is a way to bring people together to talk about any conflict problems. Say if you are arguing with a neighbour or a cousin. You can come together and talk about the problem and work out a way to sort out the problem that suits all of you.



Two mediators who have nothing to do with the argument will sit down with you and help you to talk about the problem and help you to work out a way to fix the problem.

Mediation has always been used in Aboriginal communities throughout Australia. Our ancestors practised mediation, way back then it was part of the lore. Community leaders, Elders and respected community members can come to mediation and practise this ancient art that honours the traditions of the first custodians of this land.

Who are the mediators?

The mediators may be local Aboriginal people or Aboriginal people outside your area. The mediator for your mediation will not be closely related to you or the other people. If you'd prefer non-Aboriginal mediators then that can also be arranged.

All Mediators are highly trained by CJC and qualified to mediate in many different types of disputes.

Aboriginal mediators also mediate in white disputes too.

Did you know....?

Our service is FREE of charge.

In CJC mediations you get the services of 2 impartial Mediators.

You get to choose if both, one or neither is to be an Aboriginal person.

Mediation sessions can take place in your community or another location at your request.

CJC mediation has no waiting lists and confidentiality is assured.

Often the Court refers people in conflict to CJCs BUT mediation never takes away your rights to pursue legal remedies through the courts.