

25 March, 2022

**Committee Secretary, Attorney-General's Department**

**Re: New family dispute resolution services for Aboriginal and Torres Strait Islander families.**

The Community Restorative Centre (CRC) is the lead provider of specialist diversion and throughcare programs in NSW (supporting clients pre, during and post-release from custody). CRC has worked for more than 70 years in strategic and practical ways to break vicious cycles of complex disadvantage, incarceration and recidivism.

CRC seeks to identify and dismantle inter-related systemic drivers of disadvantage, including family breakdown, social disadvantage and dislocation/isolation, homelessness, poverty, poor mental and physical health, limited/interrupted access to education, employment and housing, substance use and histories of trauma (including the trauma of imprisonment on clients, families and communities).

CRC welcomes this opportunity to support Closing the Gap Initiatives by offering comments and suggestions in relation to the development of new culturally safe family dispute resolution services (FDR) for Aboriginal and Torres Strait Islander families.

The comments and suggestions provided here are intended to raise practical considerations in relation to enabling new FDR services to meet the needs of First Nations people impacted by the criminal justice system.

**About CRC**

CRC programs aim to reduce recidivism, break entrenched cycles of criminal justice system involvement, and build pathways out of the criminal justice system. CRC works with both individuals and their families, with a particular emphasis on the provision of post-release diversion and reintegration programs for people with multiple and complex needs on release from custody. CRC seeks to enable CRC clients to access the supports and opportunities they need to leave both the justice system and ongoing disadvantage behind.

First Nations people are disproportionately impacted by incarceration and Australia has the highest rate of incarcerating First Nations people in the world. CRC works with around 800 people leaving prison each year.

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Approximately forty per cent of CRC clients are Aboriginal and/or Torres Strait Islander people.

The Australian Bureau of Statistics noted in 2020 that First Nations people constitute twenty-nine per cent of the total prisoner population. First Nations women make up more than one third of all women in prison and are over-represented, with a forty-nine per cent increase since 2013, compared with a six per cent increase among non-Indigenous women. Up to eighty per cent of First Nations women in custody are mothers.

CRC offers the following recommendations in the hope that culturally appropriate FDR services will help reduce the disproportionate representation of First Nations people impacted by the criminal justice system.

Specifically, CRC keenly anticipates that FDR services will play a significant contributing role in reducing the number of First Nations adults at risk of entering the criminal justice system, held in custody, particularly women, the number of First Nations young people held in detention and the number of First Nations children in Out of Home Care.

Culturally appropriate FSR services offer enormous potential in growing pathways to sustained positive connections for First Nations families and their children.

**CRC offers the following specific suggestions for your consideration:**

- FDR services planning will seek out and amplify the perspectives, knowledge and expertise of First Nations people with lived experience of incarceration. It will also recognise and seek to amplify the knowledge and expertise shared within the community sector.
- FDR services will seek to reduce the impact of systemic and intergenerational disadvantage, discrimination and stigma for First Nations people by supporting families impacted by the criminal justice system.
- FDR services will seek to respond to the needs of First Nations people (women, men, parents, families and young people) impacted by the criminal justice system, recognising that the incarceration of a family member affects whole family systems in the present and across future generations.
- FDR services will seek to respond to the needs of First Nations people who are the victims of crime, including women and others who have experienced family violence and their children.

- FDR services will seek to respond to the needs of First Nations people at risk of entering the criminal justice system, in custody and exiting custody, and their families, in culturally appropriate ways.
- FDR services will seek to respond to the needs of First Nations people on remand, given that remand is a liminal point of waiting, crisis and anxiety, often experienced in terms of very poor access to services and undertaken in maximum security settings (one third of all prisoners in NSW are on remand at any given time and fifty per cent of all prisoners who committed suicide in recent years were on remand, *Australia's Prison Dilemma, Research Paper*, Productivity Commission, 2021).
- FDR services will seek to respond to the changing needs of First Nations families by supporting them through crisis points of increased vulnerability, recognising that incarceration affects entire family systems socially, emotionally and materially. Partners and the extended families of people in custody often negotiate a range of rapidly changing circumstances and increased disadvantage and stigma while their family member is in custody. They then face a whole new set of challenges when their family member is released.
- FDR services will acknowledge that the absence of stable, secure, affordable and culturally appropriate accommodation poses one of the most significant risk factors for homelessness and re-incarceration. More than 10,000 people are released from prison each year in NSW with nowhere suitable to live. There is a clear body of evidence demonstrating that not only are homeless people over-represented in prisons, but that the experience of imprisonment itself increases the likelihood of homelessness on release. Insufficient pre-release planning and crisis accommodation exacerbates this problem. Family breakdown increases risk factors for homelessness, poverty and re-incarceration even further.
- FDR services will acknowledge that for incarcerated parents who have been separated from their children and are looking to resume care, securing safe and secure accommodation post-release is a critical part of the equation. Any strategy to support the children of prisoners must have accommodation at the centre of post-release planning.
- where FDR services are required by young people exiting custody, FDR services will be used as a pre-emptive measure to stabilise home environments in a culturally appropriate way.
- FDR services will respond to the needs of and properly support First Nations people to sustain family contact/connection through family visits (in person or via teleconference) and support the reimbursement of costs for family visits.

- FDR services will be culturally appropriate, and trauma/healing informed, recognising and acknowledging that prisons are sites of harm, trauma and re-traumatisation for First Nations people.
- FDR services will be widely accessible to First Nations peoples either currently in custody or impacted by the criminal justice system. Practical interventions will ensure that:
  - FDR services are advertised/promoted in culturally appropriate ways within prison settings
  - FDR services are provided free of charge to people in custody
  - technology/tablets are made available to all First Nations people and their families to enable sustained engagement with FDR services, the children and communities
  - independent confidential support and representation is available to First Nations people in custody
  - FDS services are accessible to people who are pre-literate or who face language barriers
  - access to mental health/ wellness support/legal advocacy/restorative justice is also made available to people accessing FDR services.

Thank you for considering these suggestions in relation to meeting the needs of First Nations peoples impacted by incarceration in planning new FDR services.

CRC would be pleased to assist in your further consideration of the issues raised here. CRC is available for consultation and is willing to provide further information, as required.

Yours sincerely,

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