



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: IIC/EEgm1764866

23 August 2019

The Hon. Mark Speakman SC MP
Attorney General
GPO Box 5341
SYDNEY NSW 2001

Dear Attorney,

Pathways to Justice Report

I write to you on behalf of the Law Society of NSW and our Indigenous Issues Committee.

As you may be aware, the Law Society has previously endorsed calls for action from Commonwealth, State and Territory Governments to address the over-representation of Indigenous people in the criminal justice system. These calls came on the one-year anniversary, in March this year, of the release of the Australian Law Reform Commission's *Pathways to Justice – Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples* ("Pathways to Justice Report") which contained key recommendations for all levels of government.

To date, neither the Australian Government, nor the State or Territory Governments have formally responded to the Pathways to Justice Report which provide key recommendations to address the over-representation of indigenous people in our prisons.

We acknowledge the NSW Government's response to the Law Society's *State Election Policy Platform* ("Election Policy Platform response"), and the commitments it included in relation to indigenous incarceration. We support a whole of government approach that recognises the key underlying causes of Aboriginal disadvantage across a number of portfolios.

In that regard, the Law Society remains committed to advocating for legislative and policy reform to address the over-representation of Indigenous people in the criminal justice system.

The Law Society is calling on the NSW Government to work in partnership with appropriate Aboriginal and Torres Strait Islander organisations and experts to:

- As previously raised with you, establish and properly resource a specialised Indigenous sentencing court, using the Walama Court model. Indigenous offenders make up one third of the sentencing work of the District Court of NSW and a specialised Indigenous sentencing court could play a significant role in diverting Indigenous offenders from custody into community-based programs. We note that the Election Policy Platform response stated that the Government was considering a proposal from the Walama Court Working Group. We would be interested in an update on the progress of that review.

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- Continue support for place-based justice reinvestment projects like the Maranguka Justice Reinvestment Project in Bourke, in north-western NSW. We note that the Government was piloting the “Family Investment Model” in Dubbo and Kempsey. Could we please receive an update on the status of the evaluation report of the project as anticipated in the Election Policy Platform response?
- Provide increased, long-term funding for Aboriginal and Torres Strait Islander Legal Services and Community Legal Centres, which are under-resourced, vastly overstretched and struggling to meet demand for criminal, family, care and protection and civil matters. When civil matters – including for credit, debt, consumer and housing matters – are left unresolved there is a real risk these life challenges can escalate into more serious criminal matters.
- Work with the Commonwealth to develop and adopt State and Commonwealth justice, family violence and care and protection targets, informed by the evidence that shows these issues are linked. We note that you anticipated, in the Election Policy Platform response, that targets would be agreed in the coming months. Is there any update available on this target-setting? The response also noted the development of an Aboriginal Justice dashboard, to monitor trends and provide a clearer understanding of Aboriginal people’s involvement in the criminal justice system. Is there any further information available in relation to this initiative?

We consider that the levels of indigenous incarceration are a national crisis that requires a comprehensive response from all levels of government, underpinned by Indigenous community empowerment and principles of self-determination.

Thank you for considering this important issue. The Law Society contact for this matter is Georgina McArthur, Policy Lawyer, who can be contacted on (02) 9926 0275 or georgina.mcarthur@lawsociety.com.au.

Yours sincerely,



Elizabeth Espinosa
President