

Dr Sarah Palmer (Principal Research Officer)
Ms Franchesca Walker (Research Officer)
lacdjsc@parliament.wa.gov.au

KALACC Submission to the Community Development and Justice Standing Committee Inquiry in to Building Resilience and Engagement for At-Risk Youth Through Sport and Culture

19 June 2016

Dear Sarah

Please find attached the KALACC Submission to the Community Development and Justice Standing Committee Inquiry in to Building Resilience and Engagement for At-Risk Youth Through Sport and Culture. Outcomes for young people in the Kimberley are appallingly bad and, sadly, getting even worse. KALACC Chairman, Joe Brown, and I were so concerned about this situation that in February 2006 we wrote to the then WA Coroner, Alistair Hope, calling on him to undertake a major Kimberley Coronial Inquiry. The Coroner responded positively and in fact Justice Hope eventually carried out three such inquiries:

- 2007 – 2008 Kimberley wide;
- 2007 – 2008 Oombulgurri community;
- 2011 Balgo community.

Yet, in 2016 Justice Hope's successor, Ms Ros Fogliani, will undertake a fourth Kimberley Coronial Inquiry in October this year. Not much has changed in the nine years since Joe Brown and I first wrote to the Coroner. And today, we have both the WA Parliament Standing Committee on Community Development and Justice and also the WA Parliament Standing Committee of Education and Health undertaking almost simultaneous inquiries in to why outcomes for youth, particularly for Aboriginal youth in remote areas like the Kimberley, are so absolutely appallingly bad.

These two inquiries are being held because there is some recognition by the Parliament of how appallingly bad things are. KALACC is altogether much less sure that either of the Inquiries genuinely understands that the intractable nature of these problems relates largely not to the social phenomena themselves but instead to the Parliament itself and to the consistent failures of Governments of various political persuasions over a long period of time.

Parliament and Government are not the root causes of poor outcomes for Aboriginal youth in the Kimberley. But these issues have been raised a myriad of times with Governments for a great many years. So, the very first item of business for any Inquiry needs to be an examination of the failings and shortcomings of Government.

On 08 May 2001 the then WA Minister for Aboriginal Affairs, Alan Carpenter, was presented with an excellent Aboriginal suicide prevention report [*Standing Together*] by the WA Aboriginal Suicide Prevention Steering Committee. Many of the recommendations in that report relate directly to young people. Yet in 2016, some 15 years later, no material action has been taken in regards to the implementation of the recommendations from that excellent report.

KALACC has provided you with a copy of our recent submission to the Education and Health Standing Committee Inquiry in to Aboriginal Youth Suicide. In that submission, KALACC details the long history of our interaction with that same committee, dating back to 2007. Indeed, that Committee has twice previously, in earlier reports, recommended that the State Government fund the national – award winning Yiriman Youth Project. Yet to this day, some eight years later, there has been no action from the State Government.

In this current correspondence we detail for you the interactions we have had, since 27 August 2007, with the WA Parliament Standing Committee on Community Development and Justice [see Appendix One]. KALACC has met with this committee once [Broome, October 2010 – discussing juvenile justice issues in the context of the Committee’s Inquiry in to the WA Prison system] and has written to the committee at least on the 34 occasions listed in Appendix One.

And yet, to this day, some nine years since first writing to this committee in August 2007, key recommendations from the September 2006 Law Reform Commission *Final Report on Aboriginal Customary Laws*, have still not been enacted. We think here particularly of the Law Reform Commission’s Recommendation # 50, that there be established Aboriginal owned and controlled juvenile justice diversion programs.

The outcomes for Aboriginal children and youth in the Kimberley in 2016 are exceedingly bad. Some of the key statistics are:

- the suicide rate in the Kimberley has doubled in a five - year period
[Source: 2016 *ATSISPEP Kimberley Suicide Prevention Summit Report*,
http://www.atsispep.sis.uwa.edu.au/___data/assets/pdf_file/0009/2862603/Kimberley-Roundtable-Report-Final-March.pdf]
- despite an additional \$42 million investment from Royalties for Regions to the Department of Corrective Services, over a four - year period the juvenile offending rate in the Kimberley INCREASED by 10%
[Source: March 2015 letter to KALACC by the Hon Joe Francis, Minister for Corrective Services]

- From 2003 until 2013, the Aboriginal and Torres Strait Islander [Child Protection] placement rate has more than doubled. In addition, the number of Aboriginal children in care is increasing at a higher rate in regional areas than metropolitan

[Source: *Kimberley Aboriginal Children in Care Report*, May 2015, page two]

As a nation we have a Closing the Gap strategy. But, as these three key indicators show, in the Kimberley region in regards to key indicators of social and emotional wellbeing, the justice system, and family wellbeing, the Gap is not closing – it is rapidly widening! This is a shocking indictment of failed government policies.

KALACC often finds itself using a simple baseball analogy ie four key steps:

- First base – Culture and identity
- Second base – Leadership and governance
- Third base – Community engagement and empowerment ie Aboriginal community responding to Aboriginal issues
- Four base - The holy trinity of State and Commonwealth Governments ie Jobs, Education and Safe Communities.

KALACC has no problem, per se, with the holy trinity of State and Commonwealth Governments. Jobs, education and safe communities are all tremendously important. But as long as Governments, State and Commonwealth, fail to understand that in baseball one must go to first base, then second, then third and only then on to fourth base, no tangible progress will be made.

These views are not some fringe, fanatical, fantasy views held by a handful of disaffected radicals in the Kimberley. The same, or similar, views are held by the Productivity Commission of Australia, the Human Rights Commission Social Justice Commissioner, National Indigenous Congress, Reconciliation Australia and a large section of academia. The Chief Justice of Western Australia on 03 May 2016 said as follows:

Mr Martin said he believed the solution lies in asking Aboriginal communities about what they need to turn their lives around.

It should not be a question of resources but how they are spent, Mr Martin said.

"My concern is that we haven't been listening to Aboriginal people about what they want and need to help them solve their problems," he said.

"It's not a white problem; it's an Aboriginal problem because most of the offending is against Aboriginal victims.

"We need to do a lot more listening and a lot less talking."

<http://www.abc.net.au/news/2016-05-03/wa-chief-justice-wayne-martin-speaks-out-on-incarceration-rates/7379064?site=indigenous&topic=latest>

Finally, attached to this document as an appendix is a KALACC email of 17 June 2016 to Ms Emma White, Director General Department of Child Protection and Family Services. The theme of KALACC's email to Ms White is that we are not overly interested in government owned and controlled 'culturally – appropriate' services. The Mental Health Commission, the Department of Corrective Services and the Department of Child Protection and Family Services each has 'culturally – appropriate' services. And yet the outcomes for Aboriginal people continue to get worse.

In line with the recent comments from the Chief Justice, KALACC will know that there is real hope of meaningful progress when Government stops talking and stops telling us about its 'culturally – appropriate' programs and starts listening to the consistent messages over many years from groups like KALACC [and the Law Reform Commission of WA in 2006] about the need for 'culturally – based' and 'culturally – embedded' programs and of the need for Aboriginal – owned and controlled programs.

Thank you for your interest in KALACC's views in regards to youth at risk.

Yours sincerely



Wes Morris
Coordinator

M: 0437 809 103
E: coordinator@kalacc.org.au

A: Great Northern Highway, Fitzroy Crossing WA 6765
T: 08 9191 5317 F: 08 9191 5319

www.kalacc.org.au

KALACC Key Messages to the Parliamentary Inquiry into Building Resilience and Engagement for At-Risk Youth Through Sport and Culture

- **Community Owned Services:** PRINCIPLE FIVE: Community-based and community-owned initiatives [Law Reform Commission of Western Australia, September 2006]
- **Aboriginal Empowerment:** PRINCIPLE SIX: Respect and empowerment of Aboriginal people [Law Reform Commission of Western Australia, September 2006]
- **Aboriginal Owned and Controlled Justice Diversion Services:** Establish a diversionary scheme for young Aboriginal people to be referred by the police to a community justice group and that the government provide adequate resources to community justice groups in order that they may develop and operate diversionary programs [Law Reform Commission of Western Australia, September 2006]
- **1. Culture; 2. Governance; 3. Empowerment; 4. Jobs, Education and Schooling [in that order]:** Governments always go to fourth base first and then wonder why The Gap only widens rather than closing.
- **There is Good Evidence of Programs That Do Work:** Attached to this submission is a copy of the Murdoch University three - year external Review and Evaluation of the Yiriman Project. The WA Parliamentary Standing Committee on Health and Education has twice recommended that the Government fund Yiriman.
- **There is Lack of Clarity in Regards to the Government's Strategy for Youth at Risk in the Kimberley:** KALACC has written on a number of occasions to YACWA and to the WA Regional Services Reform Unit, seeking clarification of the Government's Kimberley youth strategy. To date, nothing substantive has been forthcoming.
- **There is Currently Very Minimal State Government Investment in to Aboriginal Youth Cultural Programs:** Out of a \$28 billion State Budget, the Department for Culture and the Arts receives around \$150 million. From that, a sum of \$1.0 million is provided to Aboriginal cultural programs. Aboriginal culture is peripheral to the Government's plans and its resource investments. The Mental Health Commission has repeatedly advised KALACC that it does not fund Aboriginal culturally based programs. KALACC is not aware of any agency which does make any significant investments in to this area.

Commentary on the WA Government's Aboriginal Youth at Risk Strategy

KALACC is well familiar with the State Government's youth at risk Aboriginal Youth Services Investment Reforms <https://www.yacwa.org.au/blog/projects/aboriginal-youth-services-investment-reforms/>. Apart from reading information freely available on the internet, KALACC has held a number of discussions over many months with senior officers of both the Youth Affairs Council of Western Australia [YACWA] and of the Regional Services Reform Unit [RSRU]. Between 01 December 2015 and 25 April 2016, KALACC wrote to the RSRU no fewer than on 16 separate occasions in regards to youth at risk issues and seeking clarification of how the Aboriginal youth services investment reforms applied to the Kimberley region. We had further discussions with the CEO of YACWA but in those discussions we were essentially informed that the YACWA and the Department of Premier and Cabinet did not seek to actively play a role in the Kimberley region in regards to the Aboriginal Youth Services Investment Reforms because these issues, along with all others, were now subsumed within the over- arching and all – encompassing remit of the Regional Services Reform Unit.

Notwithstanding that advice from YACWA, to date the RSRU has not provided to KALACC any clear, overarching statement of its strategies in regards to youth issues in the Kimberley. KALACC understands that the RSRU has a Thriving Communities Framework which contains 11 Domains, one of which is Children and Young People. We also understand that, in response to correspondence from KALACC, that the Kimberly District Leadership Group, chaired by the RSRU, has made youth issues its first priority. However, detail and substance has not yet been forthcoming. The RSRU is presenting to State Cabinet a Regional Services Roadmap, which we are told by the Premier will take the form of a Discussion Paper. Hopefully, when that document is released for public discussion, comment and feedback then we will have some insight in to the substance of what the government is planning for young people in the Kimberley.

We are well aware of the social problems besetting youth in the Kimberley and we are well aware of the basic structures of the Government's Aboriginal youth at risk reform strategy, as outlined in this Youth Expenditure Review Fact Sheet http://www.drd.wa.gov.au/Publications/Documents/Regional_Services_Reform-youth_expenditure_fact_sheet.pdf

That fact sheet is somewhat inscrutable, as we don't know what programs in what areas were funded under the existing investments of \$115 million, or how much of that investment is in to community based programs or how much is in to Government owned and controlled programs. But the broader point is that as far as these matters pertain to the Kimberley region it is the RSRU which has carriage of these things and to date the RSRU has not outlined what its plans in this space are.

As noted previously, the Department of Corrective Services received an additional \$42 million of funds over four years [sourced from Royalties for Regions] over and above its base Treasury allocation [circa \$100 million per annum for juvenile justice services]. At the end of that four - year period, according to March 2015 advice from the Minister for Corrective Services, the juvenile offending rate in the Kimberly had INCREASED by 10%. Given these kinds of outcomes despite very substantial resource allocations and investments, KALACC believes that serious questions have to be raised about effectiveness, efficiency and ‘Things That Work’. There is a report of a review of this program but the Government will not publicly release that report. We are reminded that the Law Reform Commission of Western Australia recommended as far back as in September 2006 the establishment of Aboriginal - owned and controlled juvenile justice programs, properly resourced by Government. Surely in the face of the poor outcomes from government – owned and controlled programs, there is a burning and urgent need to act on implementing the Law Reform Commission’s recommendation Number 50.

In Queensland that state has Aboriginal Community Alcohol Management Plans. These plans ARE NOT managed by the Health Department. It is hard to over – emphasise this point. Those plans are managed by the Queensland Department of Communities. Again, we cannot over – emphasise the significance of this. If you ask the wrong question then you will always get the wrong answer.

Large investments in to the Mental Health Commission have coincided with a doubling of the Aboriginal suicide rate in the Kimberley region. As long as we think that the Mental Health Commission is the solution to Aboriginal suicide, there will be no improvement in Aboriginal suicide. If you ask a Health Question you get a Health Answer. And overwhelmingly, Aboriginal youth suicide IS NOT a health issue [or, at least, not a clinical Mental Health issue].

Aboriginal culture is alien to and peripheral to Government planning and policy. Using the rough instrumentalities of Government departments, funding for culture comes from the Department of Culture and the Arts [DCA]. If we look at what those numbers for DCA actually look like, the current pattern of State Government activity is as follows:

- \$28.5 billion total Government annual expenditure;
- Of that, some 28% or \$8009 million is spent on Health;
- An additional 10% or \$2750 is spent on Law and Order;
- Included within the Health expenditure is \$52 million [not annual but over a few years] on clinical and therapeutic treatment of Aboriginal people with severe and persistent mental illnesses;
- Since the introduction of that clinical program, there has been no diminution in Aboriginal suicide rates;

- Included within the Law and Order expenditure is \$42 million [not annual but over four years] for juvenile justice programs in the Kimberley and the Pilbara;
- Since the introduction of that juvenile justice program, youth offending rates in the Kimberley have RISEN by around 10% [as confirmed to KALACC by written correspondence from Minister Joe Francis, dated 18 March 2015];
- The WA Department of Culture and the Arts has a 2014 – 15 FY allocation of \$148 million;
- Of the DCA budget, \$6,857,876 is allocated to major performing arts companies;
- Of the DCA budget, \$711,245 is allocated to core funding for four Indigenous arts companies and an additional \$263,805 is spent on Indigenous Arts programs;
- Of the DCA budget, and the \$711,245 allocated to core funding for four Indigenous, a sum of \$79,005 is allocated to the Kimberley Aboriginal Law and Culture Centre.

[These numbers are the 2015 numbers. We have not updated them for 2016 but we believe that the general pattern and the general argument remains entirely the same.]

KALACC is pleased that agencies such as the Department of Culture and the Arts state that they value Aboriginal culture, both for its inherent value and for its value as a positive contributing factor to Aboriginal social and emotional wellbeing. But the Department itself allocates only \$1.0 million annually to the support of Aboriginal Culture. This is out of a total agency allocation of \$148 million and out of a total State Government budget of \$28.5 billion. If dollars speak loudest, then according to the Government's resource allocations, Aboriginal culture is incidental and peripheral to the strategies of the State of Western Australia.

If funds for the support of Aboriginal culture are not being provided by the Department of Culture and the Arts, then they are not being provided by any other agency. As an illustration of this fact, the Mental Health Commission [MHC] wrote to KALACC in the following terms in February 2015:

“there was no new funding currently available to the Mental Health Commission for the sorts of actions raised by Mr Morris and thus if any support for upstream services of this nature was to be provided then it would come at the cost of a reduction in clinical therapeutic and other mental health services which are already in great demand and under pressure.”

The MHC has reiterated those comments to KALACC in recent, May 2016, correspondence.

In summary, KALACC is well familiar with the State Government's youth at risk Aboriginal Youth Services Investment Reforms. But, as far as the Kimberly Region is concerned, the RSRU is the lead agency and to date

it has not released any strategy or guidelines or substantive indication of how it will seek to operate within the Thriving Communities domain of Children and Youth.

What we do know is that since September 2006 the Law Reform Commission recommended investments in to Aboriginal – owned and controlled juvenile justice programs. This recommendation has not been enacted and the Government has instead continued to allocate large investments in to Government – owned and controlled programs which have failed to deliver positive outcomes for Aboriginal people.

The government says it has confidence in the evidentiary basis for 15% of its \$115 million annual investment in to Aboriginal youth at risk programs.

http://www.drd.wa.gov.au/Publications/Documents/Regional_Services_Reform_youth_expenditure_fact_sheet.pdf

In contrast, KALACC provided the Government with a three year external Murdoch University review and evaluation of the Yiriman Project in December 2013. That Murdoch University Report concludes as follows:

The author is presently involved in reviewing six community-based projects across Western Australia. In his view the Yiriman Project represents one of the country's most impressive stories of local people's attempts to deal with the central and pressing public policy challenge of securing the future for Indigenous young people living in remote communities.

http://www.kalacc.org.au/docs/default-source/statements/yiriman-project-11_12_2013.pdf?sfvrsn=2

Culture is the single most important thing for Government to be investing in. But Government finds culture to be alien and foreign and thus allocates absolutely minimal investments in to Aboriginal cultural programs.

Governments, and the Parliament, have been told all of this many times before. And, in October 2016, KALACC will say all of these same things again to the WA Coroner, Ros Foglioni.

Attachments:

In addition to the appendices to this current document, we also provide as a separate attachment a copy of the Murdoch University December 2013 *Review and Evaluation of the Yiriman Project*.

http://www.kalacc.org.au/docs/default-source/statements/yiriman-project-11_12_2013.pdf?sfvrsn=2

We also attach to this submission a copy of KALACC's recent Submission to the WA Parliament Standing Committee on Health and Education Inquiry in to Aboriginal Youth Suicide.

Appendix One – KALACC History of Correspondence to the Community Development and Justice Standing Committee

- 27 August 2007 – Law Reform Commission of Western Australia Recommendation for the Establishment of Aboriginal owned and controlled juvenile justice programs;
- 30 September 2010 – Meeting in Broome in regards to the Committee's Inquiry in to the Prison System
- 28 October 2013 – KALACC Proposal to State Government in Regards to Aboriginal Youth Justice Diversion - Ministers Collier and Francis
- 28 October 2013 - KALACC Juvenile Justice Scoping Study
- 05 November 2013 - KALACC Proposal to State Government in Regards to Formal, Intensive, Case Managed Juvenile Justice Diversion Programs in the Kimberley
- 05 November 2013 – Forwarding to the Committee Correspondence sent to the Corrective Services Commissioner
- 23 November 2013 - Summary of KALACC and Yiriman Points raised at the meeting of the Alternative Youth Justice Working Group Meeting 22 11 13
- 25 November 2013 - KALACC to Dr Hames - Youth Programs in the Kimberley - 'Cultural Wounds Require Cultural Healing'
- 20 December 2013 - KALACC - Correspondence Received this week - 2 State Government Ministers plus 1 Commonwealth
- 16 February 2014 - KALACC Letter to Tim Marney - Request to the AACC Sub Committee on Aboriginal Health and Mental Health
- 16 February 2014 - KALACC Submission to the Inquiry into the harmful use of alcohol in Aboriginal and Torres Strait Islander communities

- 10 March 2014 - What action will the Ministerial Council for Suicide Prevention take in response to the 13 November 2013 resolution of the Legislative Assembly, calling on Governments to do more to address the tragic suicide situation in the Kimberley Region?
- 16 April 2014 - KALACC: 1. National Mental Health Commission; 2. Elders Report; 3. Suicide Prevention Australia
- 10 May 2014 - KALACC Request for Government Response to the October 2013 Justice Diversion Scoping Study
- 11 June 2014 - KALACC and Yiriman #2 - Indigenous Mental Health and Suicide Prevention Roundtable 23, 24 June UWA
- 31 July 2014 - KALACC, Inspector CS, and the WA Justice System #1
- 31 July 2014 - KALACC, Inspector CS, and the WA Justice System #2 - youth resilience programs
- 31 July 2014 - KALACC, Inspector CS, and the WA Justice System #3 - Juvenile Justice Diversion
- 10 August 2014 - KALACC Response to Small to Medium (S2M) Arts Sector Desktop Research on behalf of the Chamber of Arts and Culture - S2M SECTOR SURVEY
- 10 November 2014 - Effective Strategies in Aboriginal mental health and wellbeing - KALACC Response and Link to Weekend Australian News Story
- 10 November 2014 - Effective Strategies in Aboriginal mental health and wellbeing - KALACC Response and Link to Weekend Australian News Story
- 12 November 2014 - KALACC Re - Yiriman Youth Project - Parliamentary Adjournment Speech May 2008
- 15 November 2014 - ABC News: NSW's first Koori Youth Court to target Indigenous imprisonment rates
- 30 January 2015 - KALACC - Yiriman Justice Diversion Program Business Case
- 21 March 2015 - KALACC Re Senate referred the issue of Aboriginal and Torres Strait Islander experience of law enforcement and justice services - please circulate
- 01 April 2015 - KALACC # 1 - Is the Department of Regional Development satisfied that \$42 million of R4R money spent on DCS RYJS Coincided With a 10% Increase in Juvenile Offending?

- 01 April 2015 - KALACC # 2 - Is the Department of Regional Development satisfied that \$42 million of R4R money spent on DCS RYJS Coincided With a 10% Increase in Juvenile Offending?
- 02 May 2015 - KALACC Submission to the Senate Inquiry in to the Aboriginal and Torres Strait Islander Experience of Law Enforcement and Justice Services
- 02 May 2015 - KALACC - Will the revised DCS RYJS be based on an acceptance of Recommendation # 50 from the Law Reform Commission of Western Australia?
- 06 May 2015 - KALACC Feedback to DCS RE Youth Justice Services Programs- Draft Request for Tender - for comment
- 12 June 2015 - KALACC RE - WA Aboriginal children 53 times more likely to be jailed than peers, Amnesty report reveals
- 27 June 2015 - KALACC Questions in Regards to Premier's Comments on Aboriginal Justice Issues
- 06 May 2016 - FW: KALACC Feedback to DCS RE Youth Justice Services Programs- Draft Request for Tender - for comment
- 06 May 2016 RE: TRIM: KALACC Feedback to DCS RE Youth Justice Services Programs- Draft Request for Tender - comments in the media by Chief Justice Wayne Martin



**COMMUNITY DEVELOPMENT AND JUSTICE
STANDING COMMITTEE**

31 October 2013

Mr Wes Morris
Coordinator
Kimberley Aboriginal Law and Cultural Centre

Via email to coordinator@kalacc.org.au

Dear Mr Morris

RE: Aboriginal Youth Justice Diversion

Thank you for your emails dated 29 October 2013 providing copies of correspondence from KALACC to Minister Francis and Minister Collier in relation to Aboriginal Youth Justice Diversion.

For the Committee's reference it would be appreciated if you could please forward copies of the Ministerial responses you receive.

Yours sincerely

A handwritten signature in black ink, appearing to read "M Quirk".

Ms Margaret Quirk, MLA
CHAIR

Appendix Two - Law Reform Commission of Western
Australia Report, September 2006

Aboriginal Customary Laws

The interaction of Western Australian
law with Aboriginal law and culture

FINAL REPORT

Project 94

September 2006

Guiding Principles for Reform

PRINCIPLE ONE

Improve government service provision to Aboriginal people

PRINCIPLE TWO

Collaboration, cooperation and consultation

PRINCIPLE THREE

Voluntariness and consent

PRINCIPLE FOUR

Local focus and recognition of diversity

PRINCIPLE FIVE

Community-based and community-owned initiatives

PRINCIPLE SIX

Respect and empowerment of Aboriginal people

PRINCIPLE SEVEN

Balanced gender and family, social or skin group representation

PRINCIPLE EIGHT

Adequate and ongoing resourcing

PRINCIPLE NINE

Ongoing monitoring and evaluation

The Commission's view is that there should be diversion to Aboriginal-owned or Aboriginal-controlled processes.

Recommendation 50

Diversion to a community justice group

1. That the Western Australian government establish a diversionary scheme for young Aboriginal people to be referred by the police to a community justice group.
2. That the Western Australian government provide adequate resources to community justice groups in order that they may develop and operate diversionary programs.
3. That the diversionary scheme be flexible and allow different communities to develop their own processes and procedures.

[sourced from pages 203 and 204 of the Law Reform Commission Report, September 2006]

Appendix Three – KALACC Correspondence, 18 June 2016, to the Director General, Department of Child Protection and Family Services

MARYOLA PINTO

Executive Assistant to the Director General

Office of the Director General

Dept for Child Protection & Family Support

Tel: Fax:

email:

KALACC Re Response from the Dept for Child Protection - Kimberley Aboriginal Children in Care Gaps
Report

Dear Ms Pinto

Please pass on to Director General, Emma White, KALACC's appreciation for her sending through the
correspondence of 14 June, as attached.

I write back to the Department today having spoken firstly, at length, with AARNJA CEO, David Wirken.
AARNJA has today also sent through today the agenda for the upcoming Kimberley Aboriginal Children in
Care meeting to be held in Kununurra next week. Agenda is attached.

We note that with that agenda, as with all previous correspondence relating to the KACC processes, there is a
photo of Joe Brown on the front cover, together with Mr Brown's words: "if they lose language and connection

to culture they become a nobody inside and that is enough to put anyone over the edge.” Mr Brown was, of course, KALACC’s Chairman for about one third of the 30 - year history of this organization and as a KALACC Special Adviser he remains integral to the operations of this organization.

With that in mind, and having discussed this at length earlier today with Mr Wirken, I wanted to raise with you now the important issue of the huge difference between the concept of a ‘culturally – appropriate program’ and ‘a culturally – embedded program.’

In the Mental Health space, the Mental Health Commission funds ‘culturally appropriate’ programs, providing resources for clinical, therapeutic services, with an agency allocation of circa \$300 million annually. As the ATSISPEP Kimberley Suicide Prevention Summit Report shows, the suicide rate in the Kimberley has doubled in a five - year period. http://www.atsispep.sis.uwa.edu.au/__data/assets/pdf_file/0009/2862603/Kimberley-Roundtable-Report-Final-March.pdf

In the justice space, the Department of Corrective Services provides ‘culturally appropriate’ programs, including youth justice diversion services. In addition to the base Treasury allocation of \$100 million per annum for Juvenile Justice Services, the Department received a sum of \$42 million over four years from Royalties for Regions, for the purposes of expanding the Regional Youth Justice Services program in to the Kimberley and the Pilbara regions. Over that four - year period, the juvenile offending rate INCREASED by 10 % despite the additional \$42 million expenditure.

We thank you for your correspondence and for the advice regarding the DCPFS Aboriginal Services and Practice Framework 2016 – 2018. And we note that “Aboriginal Way is a culturally appropriate practice approach for working with Aboriginal children and families who come in to contact with the Department.”

KALACC is the Kimberley region’s peak Aboriginal cultural centre. We DO NOT offer culturally appropriate programs. We offer and provide ‘culturally – based’ and ‘culturally – embedded’ programs including the nationally profiled and national – award winning Yiriman Youth Project. If you take culture away from what KALACC does, then there is nothing left.

For a period of 10 years, the Department for Child Protection regarded KALACC as being a preferred supplier of children's and youth activities. At present, KALACC has no resource or community – capacity building relationship with the Department. Your recent correspondence sheds no light on that issue and makes no mention of that issue.

KALACC looks forward to actively participating in next week's KACC meeting in Kununurra. Our presence at next week's meeting will be led, not by Mr Brown, but by KALACC Woman's Chairperson, Merle Carter, supported by Robyn Wilson and by Tanya Carter.

KALACC's position is clearly set out through Mr Brown's words and sentiments. Next week and throughout the ongoing KACC processes, we look forward to learning from the Department how the Department seeks to work with the Kimberly region's peak Aboriginal cultural centre and how the Department seeks to develop community capacity building around 'culturally – embedded programs.'

Kind regards

Wes Morris

KALACC Coordinator

Appendix Four: KALACC Correspondence of 06 May 2016 to the Department of Corrective Services

Amy Smith
A/Senior Project Officer
Youth Justice Services
Department of Corrective Services
Level 3, 141 St Georges Terrace, PERTH WA 6000
t: | f:
w: www.correctiveservices.wa.gov.au

Hi Amy

Thanks for your acknowledgement of my email of Tuesday.

Later that same day, Tuesday, Chief Justice Wayne Martin made some comments to the media, as follows:

<http://www.abc.net.au/news/2016-05-03/wa-chief-justice-wayne-martin-speaks-out-on-incarceration-rates/7379064?site=indigenous&topic=latest>

WA Chief Justice Wayne Martin speaks out on state's incarceration numbers

LESS TALKING, MORE LISTENING

Mr Martin said he believed the solution lies in asking Aboriginal communities about what they need to turn their lives around.

It should not be a question of resources but how they are spent, Mr Martin said.

"My concern is that we haven't been listening to Aboriginal people about what they want and need to help them solve their problems," he said.

"It's not a white problem; it's an Aboriginal problem because most of the offending is against Aboriginal victims.

"We need to do a lot more listening and a lot less talking."

I believe that the Chief Justice's views are entirely consistent with the position which KALACC has put in its correspondence to the Department .

Kind regards

Wes Morris
KALACC Coordinator
coordinator@kalacc.org.au
0437809103

From: Smith, Amy
Sent: Friday, 6 May 2016 2:25 PM
To: Wes Morris <coordinator@kalacc.org.au>
Subject: RE: TRIM: KALACC Feedback to DCS RE Youth Justice Services Programs- Draft Request for Tender - for comment

Good afternoon Wes
Thank you for your email.
Kind regards
Amy Smith
A/Senior Project Officer
Youth Justice Services
Department of Corrective Services
Level 3, 141 St Georges Terrace, PERTH WA 6000
t: | f:
w: www.correctiveservices.wa.gov.au

From: Wes Morris [<mailto:coordinator@kalacc.org.au>]
Sent: Tuesday, 3 May 2016 3:03 PM
To: Smith, Amy; ...
Cc: Irwin, Caron; McMahon, James; Todd, Jason; Green, Rachael; Garlett, Carol
Subject: TRIM: KALACC Feedback to DCS RE Youth Justice Services Programs- Draft Request for Tender - for comment

Amy Smith
A/Senior Project Officer
Youth Justice Services
Department of Corrective Services
Level 3, 141 St Georges Terrace, PERTH WA 6000
t: | f:
w: www.correctiveservices.wa.gov.au

Cc: Kate Ingham (co-chair) funding and contracting working group
Department of Finance

03 May 2016

KALACC Response to and Feedback on the Draft Department of Corrective Services Request for Tender – Juvenile Justice Services

Dear Amy

KALACC wishes to acknowledge the significant progress which the Department of Corrective Services has made in recent years by introducing much – needed and long – overdue cultural change within the Department. The need for such change was evident in the Minister’s decision to appoint a new Commissioner. Across 2010 – 2011 KALACC [through Wes Morris] and the Department of Aboriginal Affairs [through Kimberley Regional Manager Ian Thomas] were both involved as members of the West Kimberley Community Reference Group for the expansion of the Regional Youth Justice Services Program. That community

consultation was an absolute travesty of process and an utter mockery of any concept of community engagement and empowerment. The Department has come a very long way since then and we congratulate the Department for that progress.

However, KALACC has reached the view that we won't be seeking to submit an application under the terms of the draft Tender Process. We do not believe that this is a process which sets out to empower the community and we do not believe that this is a process which is set up for success. We believe that the tender processes as currently presented have significant risks built in to them and we don't wish to expose ourselves to those risks. Our Key Points are set out on the following page and thereafter we provide a more detailed commentary on why we hold the views which we do hold.

The Department has come a long way. And KALACC also wishes to acknowledge the support which we will receive across 2016 and 2017 under the Youth Justice Board initiative. We hope that at the end of 2017 that we will be able to collectively reflect on successes across 2016 – 17 and that the experiences of the Youth Justice Board will assist the Department to make further progress in future years.

Regards



KALACC

Wes Morris
Coordinator

M: 0437 809 103
E: coordinator@kalacc.org.au

A: Great Northern Highway, Fitzroy Crossing WA 6725
T: 08 9191 5317 F: 08 9191 5319

From: Wes Morris [<mailto:coordinator@kalacc.org.au>]

Sent: Wednesday, 27 April 2016 11:13 AM

To: 'Smith, Amy'

Cc: 'Irwin, Caron'

; 'Todd, Jason'

; 'Green,

Rachael'

; 'Garlett, Carol'

Subject: Youth Justice Services Programs- Draft Request for Tender - for comment - KALACC Request for Clarification [With Corrected Maths]

Amy Smith

A/Senior Project Officer

Youth Justice Services

Department of Corrective Services

Level 3, 141 St Georges Terrace, PERTH WA 6000

t: ' ' | f: ' '

w: www.correctiveservices.wa.gov.au

Hi Amy

I am re- sending this email from yesterday, but this time with corrected maths.

I must have failed primary school maths if I thought that one seventh equaled 7%. Oops. Of course, one seventh actually equals 14.3 percent and on that basis the DCS expenditure on Government owned and delivered programs relating to Kimberley would be closer to \$16.5 million rather than the \$9.5 million which I wrote in yesterday's email.

And thus, that would then make the proposed investment in to Community – owned and delivered programs in the Kimberley, at \$1.0 million per year, one sixteenth of the investment in to Government – owned and controlled programs.

Of course, as noted before, this is all highly speculative and is based on a range of assumptions, the main one being that DCS spends one seventh of its \$100 million Juvenile Justice expenditure [not including R4R] on expenditure relating to juveniles from the Kimberley.

If the Department has accurate information on any of this, then we would be very happy to receive such information from the Government.

I note with considerable interest the 16 February 2016 advice which KALACC received from the Department:

“Hi Wes,

I have spoken with YJS as to the possible release of that report and unfortunately as it is unpublished it is unable to be released and the cost per participant figures are not contained in that report either.

Natasha Laden | Senior Project Officer | Strategic Policy | Office of Reform
Department of Corrective Services”

I wrote back to Natasha as follows:

“Hi Natasha

It is interesting that the Department of Corrective Services is asking KALACC, a small organization based in Fitzroy Crossing, to provide cost per participants.

But with all of the Department's resources, the Department is not able to provide to KALACC the same information which it requests from us.

This strikes me as being quite inequitable. “

I wonder if when the Law Reform Commission brought down its September 2006 recommendation for the establishment of Aboriginal – owned and controlled juvenile justice programs, if the commission envisaged that such programs be resourced at the rate of one sixteenth of the resourcing of the Government owned and controlled juvenile justice programs? What the Law Reform Commission actually did was to start with some 9 guiding principles and of those, we note the following ones in particular:

- PRINCIPLE FIVE - Community-based and community-owned initiatives
- PRINCIPLE SIX - Respect and empowerment of Aboriginal people
- PRINCIPLE SEVEN - Balanced gender and family, social or skin group representation
- PRINCIPLE EIGHT - Adequate and ongoing resourcing

KALACC notes in particular the following words, to be found at the top of page 203, of the Law Reform Commission Report of September 2006:

“The Commission has received a number of submissions in support of its proposal for diversion to a community justice group. Both the Department of Corrective Services and the Department of the Attorney General stressed the need for adequate resources in order for the implementation of this proposal to be effective”

KALACC would only be interested in submitting a tender application if we thought that the processes were setting us up for empowerment and success. The Department itself clearly held the same view back in 2005 – 2006. However, if there is one million available across the Kimberley for non – government services then we would not be interested in lodging an application as we don't think that that level of funding is setting up Aboriginal organisations for success.

Before I saw the actual tender document I went on ABC radio recently and I praised the Department for its cultural change over the last two years. The processes for the West Kimberley RYJS Community Reference Group, some six years ago, were an absolute travesty and an utter mockery of community engagement and community empowerment. The Department has come a considerable way since then – thus my positive comments on radio recently. However, had I seen the draft tender document before making those comments on air, I think that I would have been a whole lot less sanguine about the extent of the cultural shift within the department.

Regards

Wes Morris
KALACC Coordinator
coordinator@kalacc.org.au
0437809103

From: Wes Morris [<mailto:coordinator@kalacc.org.au>]
Sent: Tuesday, 26 April 2016 11:52 AM
To: 'Smith, Amy'
Subject: RE: Youth Justice Services Programs- Draft Request for Tender - for comment - KALACC Request for Clarification

Amy Smith
A/Senior Project Officer
Youth Justice Services
Department of Corrective Services
Level 3, 141 St Georges Terrace, PERTH WA 6000
t: ' ' | f: '
w: www.correctiveservices.wa.gov.au

Hi Amy
Thanks for your email of last Wednesday.

Can I now just check with you that the following data is accurate?:

- State Budget forecast for Youth Justice Services 2016 – 17 \$100 million - \$99, 408, 000 ie just under
- Royalties for Regions RYJS over four years [Kimberley and the Pilbara Regions] - \$42 million
- State Budget forecast for 2017 – 18 RYJS Expansion - \$15 million
- The current youth justice tender process, Statewide - \$6.9 million maximum
- The current youth justice tender process, West Kimberley the WK region - \$500 - \$600, 000 pa across
- This tender process minimum contract size - \$300, 000 pa

[All of the above are per annum, except the \$42 million, which was over about four years]

If you can confirm that this data, primarily sourced from the State Budget papers, as attached, are accurate, then that would be very helpful.

If this information is correct then it would mean that the investment in to the Kimberley [East and West] for the current youth justice tender process is around \$1.0 million per annum. KALACC has no way of accurately calculating the DCS youth justice investment in to Departmental programs in the Kimberley ie we don't know how much of the \$100 million Treasury allocation is associated with Kimberley costs. The draft tender document allocates one – seventh of the financial resources to the Kimberley region and one seventh of \$100, 000 million is \$14.3 million. One would add on top of that the sum of \$2.5 million per annum from Royalties for Regions and one would then arrive at a figure of \$16.8 million per annum per annum for Government run juvenile justice programs.

If these figures are accurate, then the proposed government investment in to community – delivered justice services in the Kimberley or relating to Kimberley youth is one sixteenth of the ongoing government investments in to government – owned and controlled processes.

In our submissions to the Department throughout the last 12 months we have noted the Law Reform Commission's September 2006 Recommendation # 50:

That there be established Aboriginal – owned and controlled juvenile justice diversion programs.

KALACC is just struggling somewhat to reconcile that recommendation with our understanding of the proposed level of investment in to community owned and delivered justice programs.

Can I also ask you to confirm that across 2011 – 2014 the juvenile offending rate in the Kimberley, both East Kimberley and West Kimberley, INCREASED by about 10%? This is my interpretation of the information provided in the attached letter from Minister Francis. KALACC is naturally keen to ensure that government investments in to juvenile justice programs are efficacious and effective and represent good value for money.

Kind regards

Wes Morris
KALACC Coordinator
coordinator@kalacc.org.au
0437809103