The Australian Prison Project

Sentencing and Punishment: The Policy Framework Relating to Indigenous People

Introduction

The purpose of this work is to provide a broad description of the policy framework specifically to Indigenous people in relation to sentencing and corrections for each state and territory in Australia. We have approached this task in the following manner:

Firstly, we have sought to identify whether there is an overarching Indigenous strategic policy framework that covers all Indigenous affairs (including justice). For example, in New South Wales this would include the Two Ways Together 2003-2012 strategy or in Queensland, the Indigenous Partnership Agreement 2007-2011. We then note aspects of these broad plans which are directly relevant to Indigenous sentencing and corrections.

Secondly we have sought to identify whether there is an Indigenous Justice Agreement (IJA) in place. Within these documents we are specifically concerned with aspects which relate to punishment rather than the criminal justice system more generally. We have also identified whether there is any supporting documentation or evaluations of these agreements which are directly relevant to sentencing and corrections. In some cases there have been evaluations or reviews relevant to the IJA, for example the Victorian Department of Justice Review of the Victorian Aboriginal Justice Agreement (2005).

Thirdly, we have identified specific Indigenous strategic policy frameworks for correctional departments (or agencies within a department), for example the New South Wales Corrective Services Aboriginal Offenders Strategic Plan (2003-2005) We have also noted relevant information from recent (2000+) annual reports.

Fourthly, we have referred to areas of policy development which are Indigenous-specific and although not directly related to sentencing and corrections, have an impact in that area. We include here for example inquiries, reports and policy initiatives arising from domestic and family violence and child sexual assault which effect sentencing and punishment. Often these inquiry reports have specific recommendations relating to offenders.

Finally we have also included relevant literature and evaluations on major programs or policies specifically relating to Indigenous corrections. For example, we include the New South Wales Judicial Commission’s evaluation Circle sentencing in New South Wales: a review and evaluation (2004) and Harris’s Evaluation of the Koori Court Pilot in the Shepparton and Broadmeadows Magistrates’ Courts 2002-2004’ (2006).

At present we provide no comment on either the effectiveness of particular strategies or initiatives or the actual implementation of particular strategies or initiatives. However we do note best practice where there is evidence to support such a claim. Nor do we comment on the value of particular goals. For example, the aim for parity in
imprisonment rates between Indigenous and non-Indigenous offenders (eg Queensland IJA) is arguably no longer sufficient given the increases in non-Indigenous imprisonment rates over the last decade and longer.

A Note on Juveniles
Strategic frameworks, policies and initiatives specifically relating to juveniles are not included in the jurisdictional summaries provided here. However we note that there may be important lessons for adult corrections from some of the policies developed for Indigenous juveniles. One area, for example, has been the development of ‘cultural plans’ for Indigenous young people under supervision or incarceration in South Australia and Victoria.

A Note on Tasmania
Whilst Tasmania does have a whole-of-government strategic plan touching on Indigenous social issues – Tasmania Together 2020; strategic policy and initiatives concerning Indigenous family violence; and a Tasmania Police Aboriginal Strategic Plan, it does not have any Indigenous-specific, corrections-related strategic frameworks or initiatives.

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