



Gordon Ramsay MLA

Member for Ginninderra

Attorney-General
Minister for Regulatory Services
Minister for the Arts and Community Events
Minister for Veterans and Seniors

Senator the Hon George Brandis QC
Attorney-General
Parliament House
Canberra ACT 2600

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Dear Attorney-General

Thank you for your letter regarding the draft terms of reference (ToR) for the Australian Law Reform Commission (ALRC) inquiry into the incarceration rate of Indigenous Australians. I apologise for the delay in responding.

The ACT Government welcomes the opportunity to contribute to this significant inquiry. The trend in the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system is a national tragedy, and one that we are committed to addressing in the ACT through the *Aboriginal and Torres Strait Islander Justice Partnership 2015-2018* and the development of a whole of government justice reinvestment approach.

The ACT Government supports the draft ToR and the broad scope of the inquiry but recommends that specific reference be made to several issues to emphasise their significance:

Justice targets

The ACT Government is pleased to note that at the Council of Australian Governments meeting on 9 December 2016 there was a commitment to refresh the ‘Closing the Gap’ target framework. Despite this step forward, it remains unclear whether justice targets will be implemented for adults in the criminal justice system. Unless there are existing concrete plans to develop and implement justice targets for all Aboriginal and Torres Strait Islander people, we recommend continued examination of justice targets in this inquiry.

Factors at sentencing

While the ToR directs the ALRC to consider sentencing laws and legal frameworks when developing its recommendations, it would be desirable to specifically refer to the factors courts must consider at the time of sentencing. The ACT is currently progressing work to make comprehensive reports on offenders’ experience as an Aboriginal or Torres Strait Islander person available to the court at the sentencing stage. The reports will aim to provide information rarely provided in Australian courts. The Canadian experience with similar reports (Gladue Reports) shows important benefits in the interests of justice that warrant examination in this national inquiry.

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

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Aboriginal women

The particularly vulnerable position of Aboriginal women and girls in the criminal justice system must be specifically highlighted in the ToR. There is a critical need to investigate the reasons for the increasing imprisonment of Aboriginal and Torres Strait Islander women, and to examine what reform measures could best meet the needs of Aboriginal and Torres Strait Islander women and their children.

Discrimination in the criminal justice system

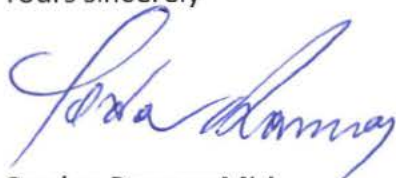
The ToR could be further strengthened by explicitly referring to the issue of racial discrimination in the criminal justice system. While the ToR refers to previous reports that cover this issue, as well as international human rights standards and instruments that are likely to bring the *International Convention on the Elimination of All Forms of Racial Discrimination* and the *United Nations Declaration on the Rights of Indigenous Peoples* into play, it would be preferable to include a clear statement of intent regarding this matter.

The ACT is pleased to note that the draft ToR would require consultation with Aboriginal and Torres Strait Islander people and their representative organisations. The Aboriginal and Torres Strait Islander community must be engaged from the outset and be actively involved in the development of the recommendations.

Coupled with this inquiry is a need to consolidate and act on the initiatives the Aboriginal and Torres Strait Islander community have already recommended in inquiries to date. While there is great potential for this ALRC inquiry to lead to a reduction in the unacceptable incarceration rate of Indigenous Australians, substantial progress will require parallel action in social policy.

The ACT Government looks forward to actively participating to this inquiry and to the recommendations that are made for law reform. For further information regarding ACT Aboriginal and Torres Strait Islander justice matters and current projects, please contact Julie Field, Executive Director, Legislation, Policy and Programs on [REDACTED]

Yours sincerely



Gordon Ramsay MLA
Attorney-General

23 JAN 2017