



January 2017

ALRC Incarceration Inquiry
Legal Assistance Branch
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

Jesuit Social Services welcomes the opportunity to comment on the Terms of Reference for the *Australian Law Reform Commission inquiry into the incarceration rate of Indigenous Australians*.

We support the Government's decision to give this issue focus and hope that the Inquiry will lead to critical changes to address the long-standing over-representation of Aboriginal and Torres Strait Islander people in our justice system.

The Terms of Reference broadly cover the key issues that contribute to the high incarceration rate of Aboriginal and Torres Strait Islander people in the justice system. To ensure the Inquiry critically analyses the full range of relevant issues, we recommend that Terms of Reference consider:

- The minimum age of criminal responsibility.
- The role of culturally strengthening practices in the justice system to enhance procedural justice in the legal process, and implementing culturally relevant restorative justice processes to empower Elders to have an active role in the justice process.
- Appropriate safeguards for children and young people, such as the ratification of OPCAT.
- A specific focus on the needs of Aboriginal and Torres Strait Islander children and young people who come into contact with the justice system.
- The efficacy of including a provision to enshrine incarceration as the sentence of last resort for Aboriginal people.

We believe these additions will contribute to a critical inquiry of all elements of the justice system and see a deeper analysis of the causes of the high rate of Aboriginal and Torres Strait Islander incarceration.

Yours sincerely

Catherine Neville
Executive Director, Advocacy and Strategic Communications