

Aboriginal Incarceration Working Group Report Quarter 1 | January to March 2020

The Aboriginal Incarceration Working Group continued its focus on developing plans and strategies to reduce breaches of bail.

1. Report on further workshop with The Behavioural Insights Team

On 26 February 2020, members of the working group and their nominees participated in a further workshop with The Behavioural Insights Team. The goal of this workshop was to expand on the creative solutions that had been identified at the first workshop in October 2019, with a view to formulating behaviourally informed interventions to improve, for Aboriginal people, the setting of bail conditions and also increase compliance with bail. At the workshop, participants co-designed interventions in the following five areas:

1. Providing magistrates with feedback to encourage fairer setting of bail conditions;
2. Helping solicitors in their advocacy with police about setting appropriate bail conditions;
3. Helping clients/defendants influence bail conditions;
4. Helping defendants to comply with their bail conditions;
5. Helping defendants understand bail conditions.

The Behavioural Insights Team collated the workshop outcomes and issued the working group with a report recommending a pilot program providing Magistrates with input and feedback about the outcomes of their decisions, and the preparation of toolkits to assist with advocacy around bail conditions. These toolkits would be used by solicitors working with Legal Aid NSW and the Aboriginal Legal Service and would also be developed for Field Officers assisting Aboriginal clients to understand and comply with bail conditions.

2. Outcomes of quarterly meeting of members of the Aboriginal Incarceration Working Group

At the 19 March 2020 meeting, the recommendations of the Behavioural Insights Team were discussed by members of the working group. The members agreed that the Chair should take the broad recommendations arising from the workshops with The Behavioural Insights Team to the Criminal Justice Board, with a view to sharing those recommendations and canvassing implementation and resourcing. That meeting has now taken place and the Criminal Justice Board has endorsed the key recommendations in broad terms, with further discussions to take place regarding details and resources. The recommendations will also be shared with the NSW Attorney-General, who previously indicated that he would consider non-legislative interventions in this area.

The members of the working group also discussed a draft Guide on Enforcement conditions under the *Bail Act 2013* (NSW), which had been prepared and distributed by Anna Dawson of the Public Interest Advocacy Centre (PIAC). The group thanked Anna for the draft Guide and agreed that it should be distributed, in the first instance, to solicitors working with the Aboriginal Legal Service and in the Crime Division of Legal Aid NSW, for their feedback and suggestions. It is envisaged that the Guide could then be shared more broadly as a resource to assist solicitors across the sector advising clients on bail enforcement conditions, and also as a basis of information for those providing assisting in Court and in the field.

3. Next meeting

The next meeting of the Aboriginal Incarceration Working Group is on Thursday 21 May 2020, from 11am to 12 noon. Paul O'Reilly, Executive Director, NSW Youth Justice, will attend the meeting as Guest Speaker.

Brendan Thomas
Chair, Aboriginal Incarceration Working Group

March 2020