

# In need of corrections

## Tass Liveris

President  
Law Society Northern Territory



Although it took a week or so for the result to become known, the Turnbull government was re-elected at the double dissolution election on 3 July 2016, albeit with reduced numbers. Over the month of July, some very close results in both the House of Representatives and the Senate were declared and the final form of the federal parliament slowly began to take clear shape.

For all of the surprises that the new look federal parliament has delivered, especially in the Senate, few would have predicted that by the end of the month, the first major challenge to confront the newly elected government would be the explosive, national exposé of the juvenile justice and corrections systems in the NT. Within a day of the revelations being aired on the ABC's *4 Corners* program on 25 July 2016, the federal government announced that a Royal Commission into the Northern Territory Child Protection and Youth Justice Systems would be held.

Then, within a week of that announcement, the government issued terms of reference and directed the Royal Commission to report by 31 March 2017. The Royal Commission is supported by Law Society Northern Territory (Society), however in the public discussions the Society has drawn attention to two important issues:

- In order for the Royal Commission to make fulsome recommendations, the terms of reference must include an examination of the reasons why there is an alarming and increasing over-representation of the Indigenous community in NT prisons, especially in youth detention and why there is a culture of prison and punishment in the NT justice system. If the Royal Commission is to

influence meaningful change, it must surely be required to ask why this is so.

- Whilst the Royal Commission has an important role to play in examining the failings of the child protection and youth detention systems in the NT and in delivering therapeutic benefits to many of the people affected by these failings, these are not new issues. The *4 Corners* program laid the failings of the system bare before the nation, but a Royal Commission isn't necessary to determine that the system is in crisis and requires urgent action.

In the Northern Territory, the Society is one of several stakeholders that has long been calling for a safe, secure and suitable juvenile detention facility, capable of fulfilling the principles of juvenile justice. It has been over two years since the government, despite calls not to do so, started using the defunct Darwin Correctional Centre at Berrimah as the youth detention centre. Since that time, the Society has opposed the use of the facility and drawn attention to the increased use of punitive security measures, the restriction of access to programs for juveniles, the inadequacy of the premises and the insufficient numbers of properly skilled staff.

The Society's opposition has included an ongoing plea for a purpose-built juvenile detention facility, equipped with adequate numbers of sufficiently trained staff as being an important part of the solution to the crisis. Sadly, the band-aid measures that have instead been implemented are shown to have failed youth offenders and the community at large.



To that end, the Society is also a member of the Making Justice Work collation (MJW). MJW is made up of a wide array of Indigenous, community, medical, religious and legal organisations with a common interest in the implementation of evidence-based and effective responses to crime in the community. Ahead of the NT general election on 27 August 2016, MJW has come up with six 'asks' for how to make justice work and has lobbied the government, opposition and independents about them. The six asks are:

- Negotiate an Aboriginal Justice Agreement that sets out how government and the Aboriginal people will collaborate to make justice work.
- Establish and resource specialist and therapeutic courts in the Northern Territory. Therapeutic courts, such as youth, drug and alcohol, mental health and domestic and family violence courts are proven and effective in enabling the justice system to respond to the underlying causes of criminal behaviour.
- Increase funding for rehabilitation, reintegration and employment programs for young people and adults who are already in the corrections system. Community-based programs have a greater impact on reducing recidivism than those based in prisons and intensive supervision with community-based services is also shown to be effective.
- Reduce the number of young people being locked up. The government could employ 3.5 mid-level nurses each year for the same amount of money that it costs to keep one juvenile in detention. Early childhood programs have been shown to substantially reduce the interactions between young people and the criminal justice system. An investment in bail support systems and increased diversion measures will also facilitate a reduction in incarceration and recidivism levels.
- Abolish mandatory sentencing. Mandatory sentencing inevitably produces unjust results and comes at a wide social and financial cost to the community. It needlessly fetters the discretion of the courts, but most fundamentally mandatory sentencing does not work to reduce crime, reduce recidivism or make the community safer.
- Alcohol is a major problem in the community and an underlying cause of significant levels of crime. A comprehensive plan to address this core issue is required, starting with a review of the current legal and policy frameworks in place to deal with alcohol.

MJW thinks the implementation of the six asks will go an extremely long way in improving the justice and corrections systems in the NT.

On another matter, in July 2016 the Society took an important step in advancing diversity within the legal profession, when the Council adopted the Law Council of Australia's (LCA) *National Model Gender Equitable Briefing Policy*, which was devised to set targets and to support the development and retention of female barristers.

The *National Model Gender Equitable Briefing Policy* is one of the outcomes of the *National Attrition Re-engagement Study* (NARS) conducted by the LCA over ten months in 2013. The research that underpinned the NARS was a nation-wide survey that was conducted in response to the serious and systemic issue of the large numbers of women entering the legal profession and then leaving it without re-engaging.

In 2014, the LCA released the NARS report, which analyses the important question of the causes of the high attrition rates of women in the legal profession and recommends strategies to target the problem. A number of important outcomes that promote diversity in the legal profession have already been achieved from the NARS and these include:

- The Society's Council adopting the *Celebrating Diversity Strategy*.
- The development by the LCA of a *Diversity and Equality Charter*, which has been adopted by the Society and which individuals, legal practices and public and private organisations throughout the community can also adopt, at this link <http://www.lawcouncil.asn.au/lawcouncil/index.php/current-issues/diversity-and-inclusion>
- The adoption by the LCA board of directors of the *National Model Gender Equitable Briefing Policy*. This policy is also available for adoption by individuals, legal practices and clients, at this link <http://www.lawcouncil.asn.au/lawcouncil/2-uncategorised/499-equitable-briefing-policy-sign-up>

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The NARS report focuses on gender issues in the legal profession, across several practice and stage of career demographics, but diversity plainly has an extremely wide definition and change needs to begin from somewhere. Addressing gender inequality is a good starting point and one which will hopefully continue to see the legal profession and the judiciary become increasingly reflective of the diverse community that they both serve.

Finally, at the Society Secretariat, the practising certificate renewals and end of financial year busyness has eased up a bit and preparations are well-underway for the AGM in November.

As many members will be aware, on 13 June 2016 the Society's Council resolved to appoint Kellie Grainger as the interim CEO of the Society under the *Legal Profession Act*, pending the recruitment of a CEO. For the moment, Kellie is juggling both the manager regulatory services role and the acting CEO role and we are all extremely appreciative of Kellie's efforts and the wonderful job she continues to do.

### Protocols for Lawyers Representing Children CONSULTATION DRAFT 2016

<http://tinyurl.com/jnarqjn>

The Law Society Northern Territory is seeking feedback and comments about this consultation draft which can be sent to:

[CEO@lawsocietynt.asn.au](mailto:CEO@lawsocietynt.asn.au)

or telephone us on:

(08) 8981 5104

Consultation closes COB  
Monday 31 October 2016

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