

Aboriginal Programs

CIRCLE SENTENCING

Circle Sentencing is an alternative sentencing court for adult Aboriginal offenders. The Circle has the full sentencing powers of the court.

It directly involves local Aboriginal people in the process of sentencing offenders, with the key aims of making it a more meaningful experience for the offender and improving the Aboriginal community's confidence in the criminal justice system.

BACKGROUND

Originally developed and implemented by the Aboriginal Justice Advisory Council, Circle Sentencing is now managed by the Aboriginal Programs Unit of the NSW Department of Justice and Attorney General.

Circle Sentencing takes the sentencing process out of its traditional court setting and into the community. Here, community members and the Magistrate sit in a circle to discuss the offence and the offender.

The Circle also talks about the background and effects of the offence and develops a sentence that is tailored for that offender.

Circle Sentencing can involve victims of offences and respected community people as well as an offender's family.

It allows greater Aboriginal involvement in the criminal justice process, particularly at the community level, and aims to increase Aboriginal satisfaction with the operations of the criminal justice system.

The program operates in Nowra, Dubbo, Walgett, Brewarrina, Bourke, Lismore, Armidale, Kempsey and Mt Druitt. An Aboriginal Project Officer is located in each site where Circle Sentencing operates.

The Project Officer is responsible for organising each Circle Sentencing court, liaising between the court and the community, and providing follow-up of each participant to ensure that the offender is complying with the agreed sentence outcome plan.

OBJECTIVES

The objectives for circle sentencing are identified in the Criminal Procedure Amendment Regulation, 2005 and they are as follows:

- Establish a sentencing format which allows for Aboriginal community involvement
- Provide support to Aboriginal victims of crime
- Empower Aboriginal communities in the sentencing process
- Increase Aboriginal community confidence in the sentencing process
- Reduce barriers between Aboriginal communities and courts
- Provide more appropriate sentencing options for Aboriginal offenders
- Provide effective support to Aboriginal defendants when completing sentences
- Reduce recidivism in Aboriginal communities.

OUTCOMES

Over 250 Circle Sentencing courts have been held up until 30th June 2008, across the State. Early evidence shows that many offenders who participate make dramatic changes to their life.

EVALUATION

In 2007 the Cultural and Indigenous Research Centre Australia (CIRCA) conducted an evaluation of Circle Sentencing.

Based on the qualitative analysis, the evaluation found that seven of the eight objectives of Circle

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Sentencing were being met. For most of the people involved in the evaluation, confidence in the Sentencing process is high. Elders, Project Officers and offenders also indicated that barriers between Aboriginal people and the Courts have reduced and Sentencing outcomes were culturally appropriate when compared to the Local Court. An analysis of re-offending however found that further work was required for the program to have a measurable impact on re-offending.

The evaluation also identified some additional limitation with regards to Circle Sentencing meeting its objectives:

- Participation of offenders in Circle Sentencing is significant, although when compared to the total number of Aboriginal people with a proven offence in the Local Court, the number involved in Circle Sentencing is limited.
- In most locations the support services available to address related issues such as alcohol and other drug use are not adequate, which it was felt limited the effectiveness of the Sentencing approach.
- The number of victims included in the evaluation was limited, and therefore it was difficult for the evaluation to be conclusive regarding the level of support provided to victims, especially with regards to victims of domestic violence.
- Related to this was that data is not collected to allow for an understanding of the level of involvement of victims based on offence type and location. To allow ongoing monitoring of victim participation it was recommended Project Officers uniformly collected this information.

NSW Department of Justice & Attorney General's response to Evaluation:

- Increasing numbers of Aboriginal offenders referred to Circle Sentencing
- Ensuring greater consistency in the type of offenders referred to Circle Sentencing
- Improving follow up of offenders after Sentencing
- Ensuring greater consistency in the operation of the program
- Better support for Circle Sentencing Elders.

Case Study

An Aboriginal man had been attending a party where he had become abusive, was threatening other Aboriginal people and assaulted one victim. The police agreed to take him home. He abused and assaulted the police officer on entering his home.

The police officer had a close relationship with the offender's family, particularly with his grandmother.

The circle discussed how the offender's actions had brought shame on his family, particularly his grandmother. The offender expressed a great deal of remorse about the shame he had brought on his grandmother.

The Circle discussed the offender's health, as he has some slight brain damage as a result of a previous assault. The circle learnt that the offender had been taking the wrong medication and it reacted with alcohol to make him violent. One circle member volunteered to accompany the defendant to a psychiatrist to re-assess his medication.

The Elders in the circle stressed violence was not part of Aboriginal culture and the offender's violent action was disrespectful to his culture and traditional Aboriginal law.

The Circle and police present at the meeting resolved to discuss ways to improve relations between them.

The other assault victim told the Circle about how it hurt her to be treated that way. She also described a number of other incidents where she had been the victim of an assault. It was the first time she had spoken about the assaults and her experiences.

The Circle members formed a small group and assisted her in getting victim's counselling and in making a victim's compensation application. The victim had also developed an alcohol problem as a result of her experiences, and the group has helped her enter an alcohol treatment program.

SENTENCE

Six months and one week suspended sentence. Elder men on the Circle agreed to teach the offender aspects of traditional Aboriginal men's law and to assist him to better appreciate his culture.

OUTCOME

Since Circle Sentencing, the offender has been taking his correct medication and is completing his sentence satisfactorily.

His life has improved since Circle Sentencing and he's now seen as role model in his community.