GOVERNMENT OF WESTERN AUSTRALIA

2016/17
ANNUAL REPORT
SUPERVISED RELEASE REVIEW BOARD
WESTERN AUSTRALIA
TO: THE HON. MINISTER FOR CORRECTIVE SERVICES

I present to you, the Annual Report of the Supervised Release Review Board for the year ending on 30 June 2017, pursuant to section 165 of the Young Offenders Act 1994 (WA). I note that the Report is not only to record the operations of the Board but also must deal with the operation of the Act so far as it relates to the work of the Board.

The Honourable Michael J Murray AM QC
Chairman
28 August 2017

Board Members from left:
Front Row: Ms Romy Pritchard, Mr Steven Smith, Ms Georgia Cera.
Second Row: Justice Michael Murray, Sgt. Clayton French, Mr Ashley Garlett.
THE COMPOSITION OF THE BOARD

The Supervised Release Review Board (the Board) is established by the Young Offenders Act 1994 (WA) (the Act). Under its Chairman, it is comprised of five Members:

1. The nominee of the Chief Executive Officer of the Department’s Youth Justice Service (YJS).
2. A person, experienced in handling young persons, to represent the community’s interest.
3. A person, experienced in handling young persons, to represent victims’ interests.
4. An Indigenous person, to represent the interests of the Aboriginal community.
5. The nominee of the Commissioner of Police.

Each member of the Board has an alternate member who may be called upon to sit when the member is unavailable. The Board is served by a Secretary, who has certain statutory responsibilities of an adjudicative nature. The Secretary is a public servant. Three members of the Board constitute a quorum at a meeting. The Board may determine its own procedure, but the Chairman is to decide all matters of law.

For the 2016/2017 year, the members of the Board were:

- Chairman – the Honourable M J Murray AM QC.
- Victims’ representative – Ms G Cera.
- Community representative – Ms R Pritchard.
- Aboriginal community representative – Mr A Garlett.
- CEO’s nominee – Mr S Smith.
- Commissioner of Police nominee – Sgt C French.

The Secretary of the Board is a statutory officer, drawn from the ranks of the administrative staff of the Prisoners Review Board. This year we have enjoyed the contribution of a number of competent people who rotated in and out of the position. Many thanks go to them all for their enthusiasm and hard work in obtaining the information required to be considered by the Board, producing the orders made, dealing with warrants, generally setting up the boardroom at Banksia Hill and dealing with youth justice officers, family members, etc.

I make special mention of the excellent work done by Ms Lisa Wilkinson, the officer who has been most involved in the work of the Board as its Secretary.

The statutory power under s132(5) of the Act for the Secretary to make a Supervised Release Order (SRO) where the term of detention does not exceed three months, in accordance with criteria laid down by the Board, is potentially useful, but during the 2016/2017 year the occasion for its exercise has not arisen.
I offer my thanks to the members of the Board and, when they are required to sit, their alternates. They are all people of the highest calibre who, uncomplainingly, spend hours informing themselves about an average of 10 or so cases a week, so that they may make a meaningful contribution to the decision-making process in relation to the young persons whose cases come before the Board.

Finally, in this regard, I record my gratitude for the dedicated work done by:

- The staff of the Banksia Hill Detention Centre.
- The Youth Justice Officers (YJOs) and managers in the YJS agencies.
- The Officers of Child Protection and Family Support (CPFS).
- Youth Education Workers and Education and Training Providers.
- Psychologists (and, on occasion, Psychiatrists), both at Banksia Hill Detention Centre and in the community.
- The Officers of the Victim-Offender Mediation Unit.
- Those in Non-Governmental Organisations who try to remedy the effects of disadvantage, alcohol, drug abuse and the misuse of solvents.
- Those, such as the people who work with the Wirapanda Foundation and As One Nyitting, who act as trainers, mentors and supporters, particularly for young Aboriginal offenders.

Their work is essential if young offenders in detention are to be assisted to make a successful transition back into the community and provided with the opportunity and support necessary if they are to be enabled to lead law abiding lives and thereby offer the community a reasonable degree of protection from their offending behaviour.

THE WORK OF THE BOARD

I include this section of my Report every year so that first-time readers who are unfamiliar with the operations of the Board may gain an understanding of its responsibilities and the way in which it performs its statutory task.

The Board has the task to manage the return into the community, under the supervision of the YJS, of those young offenders who have been sentenced for serious or repetitive offending to terms of imprisonment, to be served in a prison, or detention, to be served in a detention centre - the sentence of last resort.

When they are close to the point of service of the minimum period before they become eligible for supervised release, they may apply to the Board for an SRO, the application being supported by relevant reports.
The Board must decide:

- if the Order should be made;
- when it should be made;
- the agenda to be provided for the young person in the community; and
- the conditions to be imposed.

The young person must have the terms of the order which it is proposed should be made, explained to him or her in language which they can understand, and they must agree to abide by those terms before the order can be made. When made, the order will generally expire upon the expiry of the term of detention.

The young offender may derail the process of the consideration of supervised release by the Board by giving notice that he or she does not consent to the making of an SRO. There have been occasions when I have been concerned that such a notice has been given when it does not express the considered and well advised decision of the young person.

I have modified the procedure by which the Board is so informed by seeking out the reasons of the young offender for that decision and, where appropriate, encouraging further consideration of the question whether or not to apply for supervised release.

Unless the Board may make an SRO we do not generally require the detainee to be brought before the Board to be told that supervised release is refused or has to be deferred for some reason. To appear before the Board is inevitably a stressful process and I have agreed with the administration of the Banksia Hill Detention Centre, where our meetings are held, that we will only require this if there is an indication that there is good reason for me to speak directly with the young offender about the Board’s decision.

The Act seeks to involve a representative of the adults responsible in law for the young offender, in the process, by requiring the order to be made in the presence, whenever possible, of a parent, guardian, Child Protection Officer, or other person responsible for the day to day care of the young person.

I regret to say that this year, as previously, attendance of parent(s), guardian(s), or other responsible adults often does not occur. I have no recommendation to make about this situation other than to say that I know that considerable efforts are made by YJOs to secure their attendance. I believe that it is important that a responsible family member is present and has the opportunity to participate in the process. Family support may be the difference between success and failure in securing compliance with the terms of an SRO.

The aim of the law and the Board is to release young offenders into the community under the terms of orders which are best calculated to achieve their rehabilitation. The Board believes that no young offender is beyond redemption and that the best guarantee of the safety of the community from further offending by them lies in their rehabilitation.

Remedial and other rehabilitative programs are undertaken in the Detention Centre and the work is continued in the community. If the order is breached, by re-offending or otherwise, the offender will generally be returned to custody and the process commences again.
The terms and conditions which are, some cases, always provided, or which are in other cases, generally provided in an SRO, will include:

- an undertaking not to commit any offence and to be of good behaviour;
- a requirement to be under the supervision of, and to follow the directions of, a Youth Justice Officer;
- the appointment of a Youth Support Officer or other mentor, including an elder of an Aboriginal community;
- the ability to reside in supportive, stable accommodation of an appropriate kind, which must not be changed without approval;
- where appropriate, and more often than not, a curfew, and/or other condition not to go to particular places or associate with particular people, under s 136A of the Act;
- a condition, or conditions, protective of the interests of victims;
- an agenda of participation in educational, vocational and recreational programs;
- psychological, psychiatric and/or other medical treatment and/or counselling;
- treatment for the abuse of alcohol, illicit drugs and solvents, monitored, where appropriate, by random urinalysis or other testing; and
- refusal, where a young offender will turn 18 during the currency of the SRO, of liberty to consume alcohol, monitored by random breath testing.

The Board has endeavoured to improve its capacity to make orders supportive of the interests of victims of crime by consulting with the Commissioner for Victims of Crime and the officers of the Victim-Offender Mediation Unit.

The Board has also tried, where it seems to be advisable, to make more effective our curfew orders and to monitor the movement of young offenders in the community by utilising the tracking devices provided by DCS and by making orders under Section 136B of the Act. However, the capacity to do so is extremely limited, particularly in remote areas, and the Board is often reduced to making such orders in a form which depends upon self-enforcement or occasional encounters in breach of the order.

It will be seen that the conditions have the basic aim to build in the community on the work done in Banksia Hill to achieve the rehabilitation of the young offender by providing, where possible, a safe and supportive home base, an active daily program combining educational, vocational and recreational elements, culturally relevant activities, and access to remedial programs, particularly concerned to combat alcohol and drug abuse.

A current concern is that, too often, the making of an SRO has to be deferred because of the unavailability of suitable accommodation within the young person’s family and by way of an institutional placement, particularly by CPFS – a resourcing issue beyond our power.
Above: A view of the gymnasium at Banksia Hill. Inmates are exposed to educational, cultural, remedial and recreational programs in the structured environment of the detention centre to aid their progress towards a law-abiding, fulfilling lifestyle.

THE PROCESS OF DECISION-MAKING

The Board does not sit in divisions. It meets every week on Wednesday. It sits at the Banksia Hill Detention Centre to facilitate access to the young offenders, whether male or female. In our experience that contact is better made in person than by video link, and Banksia Hill is a convenient location for responsible adults and officers involved in the case to attend before the Board, unless, of course, they are located in regional or remote centres.
I have wanted to organise travel by the Board periodically to regional centres (for example, Kununurra, Broome, Port Hedland, Geraldton, Kalgoorlie, Bunbury and Albany). The purpose of so doing is to better inform Board Members of the services available in those centres and to better inform people who work in those places of the needs of the Board.

Budgetary constraints have so far made this impossible to achieve, but I remain convinced that such a program would be worthwhile and suggest that such a program of attendance of a quorum of three members of the Board in regional centres to hold formal meetings and consult with government and non-government service providers working in the area would be of benefit to all involved and enhance the capacity to involve responsible adults in the decision – making process.

The meetings are attended (in person or by telephone link-up) by the relevant Youth Justice Officer, one or more adults having responsibility for the young person, and any other person involved in the case, wherever possible. But, as I have said, where necessary, the Board can act in the absence of such persons.

Youth Justice Officers and other persons whose work is related to the functioning of the Board are welcome to attend our meetings and a number have done so, including trainees in affected areas of work. I do not overlook the interest and attendance at a meeting of the Board of the Hon Francis Logan MLA, the Minister for Corrective Services. I am most grateful for the support provided to the Board in that way.

The Board’s decision-making is strongly evidence based. As I have said, an SRO is required by s 132, s 136 and other provisions of the Act, to contain the conditions which are to govern its operation in accordance with what we call a viable release plan, tailored to meet the young offender’s specific needs for remedial treatment, a supportive home environment and an educational, vocational and recreational program designed to create a future for the young person which will assist to prevent him/her from resorting to crime to sustain what they may see as an acceptable way of life.

Many of the young offenders in detention carry huge burdens in respect of their mental and emotional well-being, impacting on the decisions which are causally related to their offending, conditions such as foetal alcohol spectrum disorder, post-traumatic stress disorder and other conditions adversely affecting their cognitive processes and emotional well-being are rife. The Board is assisted by the reports of psychologists in appropriate cases and by the work of the medical practitioners in the Telethon Kids Institute.

It is vital that we are provided by the officers of the YJS, the Case Planning Section of Banksia Hill Detention Centre, the Psychological Service, CPFS case workers and others who are involved in the process of informing the Board, with reports which adequately canvass the issues affecting the making of an SRO and their proposed solutions in settled detail. We cannot act upon ‘ifs’ and ‘maybes’.

Importantly, the YJS has worked to provide best practice in the programs available to detainees in the detention centre and to increase the sophistication of the remedial work to be done with suitable detainees in Banksia Hill and continued in the supervision process on supervised release. We have seen improvements in this regard and, as we understand it, there is a continuing functional review being undertaken to improve the care of the young
people and to facilitate the delivery of educational and rehabilitative programs. This can only help the Board with its work.

An instructional and counselling program has been introduced. It may be undertaken in Banksia Hill and continued in the community. It is flexible in its application and has been found to work. In other words it is evidence based and, when reported to the Board, will be incorporated in an SRO in the supervision or general counselling component, or both. The program is called CHART (Changing Habits And Reaching Targets).

SOME DIFFICULTIES

I do not here wish to refer to the difficult nature of the work of the Board, or the frustration attendant upon the failure of a carefully crafted release program, or the even greater frustration when a young person has successfully, finally, sometimes after a considerable struggle, completed an order, but later (sometimes only shortly after the SRO ends) relapses into offending behaviour and is again sentenced to detention.

There are, however some ongoing difficulties to which I must refer, as I did last year, because they remain central impediments to the work of the Board. They include:

1. Terms of detention are often necessarily short and made shorter by back-dating sentences when there has been a period served in custody on remand, because bail has been refused, breached or could not be taken up.

2. Remedial programs are generally not undertaken during periods on remand, before conviction. In addition, they are sometimes not available to the Board in the community because there are insufficient places, or the program is simply not able to be delivered at the time and the place where it is needed.

3. Appropriate, supported public accommodation is often not available without a long waiting list, or the young person absconds to return to family. As I have said, CPFS seems to face substantial demands for accommodation of this type, and the need is particularly critical when the young person’s home environment is itself dangerous.

4. Sometimes the result is that a child cannot be released from detention as soon as he/she becomes eligible for supervised release, and the Board’s decision has to be deferred because there is literally nowhere for them to go, except to accommodation which exposes the person to danger.

5. Because of the short periods of time involved, there is a limited capacity for the Board to defer the release of an offender and still frame a sensible SRO. The result, in an extreme case, may be that supervised release is denied without fault on the part of the young offender.
6. On the other hand, mandatory sentencing of young offenders who are ‘third strike’ burglary offenders simply distorts the process of sentencing juveniles in a time frame appropriate to their age, without any evidence that it reduces recidivism.

However short or long may be the period of supervised release, the Board aims to establish a law-abiding, fulfilling and productive way of life for the young person, which may be pursued voluntarily after the expiry of the order.

I wish to elaborate a little more upon the fact that the Board very often encounters a dysfunctional home and community environment, involving parental figures, extended family and others, which teaches children what they come to regard as normal or accepted behaviour.

- Domestic violence teaches the child that violence is an acceptable response to the frustration of one’s needs.
- It is expected that alcohol, cannabis, solvent inhalation and, increasingly, methamphetamine and crystal meth consumption is an accepted social lubricant, a source of self-belief and a means of dulling the results of social and economic deprivation and disadvantage.
- It is legitimate, indeed necessary, that basic needs and aspirations may be satisfied by the commission of criminal offences, most often aggravated forms of burglary, robbery, other violent offences, sometimes of a sexual character, and the stealing of motor vehicles.
- Self-esteem and acceptance by others can only be found in the eyes of a peer group which sees the world through a similarly distorted lens.

The Board may only work with the young offenders and there is little capacity to provide remedies for such environmental factors. The difficulty confronting young offenders who embark upon a period of supervised release with hope and good intentions, in escaping from such influences, should not be underestimated.

As I did last year, I will give an example at a practical level. The young person may not be able to be provided for in CPFS accommodation of an acceptable kind, when it is needed. Nor may such accommodation be available with other non-government providers. It may be, therefore, if an SRO is to be made, that the young person may have to be returned to a home environment with family or relatives which, on any view, would otherwise be regarded as unsuitable.

It may be that the child is in danger of violence there. He may be likely to witness violence by a ‘stepfather’ figure against his mother or siblings who are unable to be defended by him. Social occasions may be attended by intoxication by alcohol and/or the habitual consumption of illicit drugs, all of which may be offered to the child. He or she may be deprived of such basic necessities as food and other material support, and no interest may be shown in schooling or attendance at vocational or remedial programs.
In short the child’s family life may be peopled by criminals and adults who are incapable of basic parenting. Should supervised release be denied, although the fault does not lie with the young person? If an order is made, a curfew, designed to keep the young person off the streets at night, would seem to be something of a cruel joke.

The fact that a considerable number succeed, with the help of youth justice workers and those in relevant non-government service providers, should be encouraging, without overlooking the need to continue to strive to improve our capacity to facilitate the process of rehabilitation.

SOME REMEDIES

Most of the matters which I shall now mention are already before Government in one way or another, most recently by way of my submission upon a Green Paper published in December 2016, entitled “Young People in the Justice System: A Review of the Young Offenders Act 1994”. What I wish to do here is to refer to the matters which have been raised and considered up to 30 June 2017. I express the hope that the process of review will continue and say that I remain of the view that the changes I will now summarise are worthy of introduction.

They are as follows:

- The provision of remedial programs to young offenders held in Banksia Hill Detention Centre on remand. If convicted and sentenced to detention the sentence is invariably back-dated and there is often little time then available to work with the offenders in Banksia Hill Detention Centre, so that they may demonstrate their readiness for supervised release by the earliest release date. There are resource implications. I note that, ordinarily, about half of the detainees at Banksia Hill will be remanded prisoners. Ordinarily, about 20% of remandees are sentenced to detention, but, of course, many are sentenced to community based orders, and remedial programs undertaken while in detention remain relevant in that context.

- The amendment of the Act to give the Board power to make a Pre-Release Order in the last three months of detention before the earliest release date, to enable the young offender to take up programs in the community and otherwise to demonstrate their readiness to take the benefit of an SRO.

- The amendment of the Act to give the Board power to fix the term of supervised release to enable the authorities to work longer, as may be needed, with the young offender in the community under the supervision of the Board. There is a precedent for this in the Corrections Act 1997 (Tas). In that State the Board fixes the parole period, which may extend beyond the expiry of the sentence.
Either by statutory amendment to enable their transfer to the Wandoor Reintegration Facility, or by the creation of a separate facility at Banksia Hill Detention Centre, as is the case with female offenders, the segregation from other detainees of those male offenders who attain the age of eighteen while in detention. It is not the association of remand prisoners with sentenced prisoners which may have an adverse effect on the rehabilitation of young offenders, but the association of sentenced adults with children.

The amendment of the Act to enable conditions to be included in SROs which involve parents and other responsible adults in remedial programs directed to provide a good and supportive home environment for young offenders on supervised release, not in a coercive way such as by order of the Children’s Court, under s58 of the Act, but voluntarily, although breach should enable the Board to re-evaluate the terms of its order.

In relation to the capacity to more effectively involve families in the support of young offenders the subject of SROs, I have followed with interest the very recent (4 July 2016) decision of the State government to undertake the initiative known as ‘Resilient Families, Strong Communities’, a Commonwealth funded program supported by state and local governments.

I have read the ‘roadmap’ which describes the scheme. It is being trialled first in Kununurra and Wyndham, with the agreement and support of local Aboriginal organisations. People who rely on government welfare support have their payments ‘quarantined’ and accessed by the use of a debit card which will prevent access to 80% of their welfare payment for expenditure on alcohol or gambling, or other than approved expenditure.

If it works it might assist families to recover their capacity to provide appropriate support to young people on supervised release. The Review to which I have referred discusses “family responsibility” conditions which might be included in an SRO. The Board will follow developments closely to determine whether it might be a condition of supervised release that parents or other responsible adults agree to participate in the SRO in that way.

IMPROVEMENTS MADE AND PROPOSED

A number of innovations and improvements in case management in Banksia Hill Detention Centre, in the throughput of remedial services to aid a successful transition of young people back into the community, and in the availability of beneficial programs in the community, have been made by, or with the support of the YJS.
The Board is seeing the beneficial effect of this work which, in my view, appropriately reflects the statutory focus upon the rehabilitation of young offenders as the best means of securing the safety of the community from their offending, rather than taking an increasingly punitive approach. I have mentioned the CHART counselling program, and the Board notes that, wherever necessary, efforts are made to engage young offenders in psychological counselling in the detention centre and upon their release.

I will not attempt to mention all of the improvements which have been introduced, or which are in the course of discussion, but I wish to at least mention a few matters which seem to the Board to be well calculated to aid its work, as follows:

- The Young Adult Development Program (YADP) targets those detainees who have, or will soon, turn 18 while in detention. They are segregated from the general population of the detention centre and provided with remedial programs appropriate to their age, such as the Step-Up anger and violence remediation program. In addition, adult education and vocational training programs are used (e.g. horticulture, construction and maintenance, woodwork, metalwork, computing), designed to improve job readiness before supervised release.

- There is a pressing need for transitional accommodation for those young offenders who are able to embark upon properly structured SRO programs, but who lack suitable, safe accommodation. The need is for a supervised home base from which the young person could be taken to suitable educational, vocational and recreational programs. That should reduce the occasions when the Board is forced to defer the grant of an SRO because of the lack of suitable accommodation. In addition, remedial programs commenced in Banskia Hill could be continued in the community.

- As I understand it, the Department has been progressing a proposal to renovate homes it owns in the Driscoll Drive area adjacent to Banksia Hill. They could provide live-in supervised accommodation for young offenders on SROs and facilities for the delivery of educational and remedial programs, as well as being a base from which the young persons could be taken to other educational, vocational and remedial programs. The Board strongly supports this initiative, but I note that there has been a recent announcement that Driscoll Drive might be used to house female detainees.

- The value of supported transition from detention to the community has long been recognised by the Board and is the purpose of the recently introduced initiatives of the Moorditj Ngoormdiak Aboriginal mentoring program undertaken by the Wirrapanda Foundation and the similar program conducted by the As One Nyitting organisation. The programs have other valuable content. The introduction of the young offender to an Aboriginal mentor usually occurs while the young person is in detention and the mentoring continues when an SRO is made, to support compliance with the Order and to improve the prospect of more enduring rehabilitation and thus a reduction in overall rates of recidivism. The SRO provides for the mentor to be appointed as a youth support officer.

- We need more generally available vocational and remedial programs which can be undertaken when required upon the making of an SRO. Outcare’s Youth Programs are a good example of what we wish was more generally available. The Outcare Live
Works, Drive Time and Reconnect Programs can be entered when needed and involve vocational training, mentoring, remedial courses and assistance to obtain apprenticeships or to otherwise enter the workforce. The capacity to tailor the program to the individual needs of the young person ideally suits the Board to discharge its duty to devise an SRO best suited to end the cycle of offending.

- It goes without saying that if the need for such programs is pressing in the Perth metropolitan area and in the regional centres, the need is critical in more remote communities in which the young offender may be placed because that is their country and the place where they at least have family support. The Act’s 132 requires an SRO to include an agenda of conditions which are to be observed as part of the order. In remote communities there is often very little available in the way of educational, vocational and remedial programs.

Above: A mural adorning the wall of a basketball court at Banksia Hill, part of the Right Track Urban Art Project offered to detainees, who may enjoy and obtain self-esteem by using their creative talents in this and other ways.
STATISTICAL
INFORMATION

1. In the year to 30 June 2017 the Board held 63 meetings.
2. The Board dealt with 465 cases involving 187 individuals.
3. There were 192 applications for supervised release.
4. 170 (89%) were approved, 73 (38%) were deferred for various reasons, and 22 (11%) were denied. At any given time about 90 SRO’s are in operation.
5. During the Financial Year, a total of 97 orders were cancelled or suspended due to re-offending and/or non-compliance. A number of the young offenders involved would, however, ultimately complete the period of supervised release.
6. Of the 187 offenders dealt with, 177 (95%) were males and 10 (5%) were females.
7. 138 (74%) of the offenders dealt with were Aboriginal persons.
8. Of the Aboriginal persons, 130 (94%) were males and 8 (6%) were females.
9. Of the 192 applications for supervised release it was not possible to have a responsible adult present in person or by phone link-up in 72 (38%) of cases.
10. The average daily number muster at the Banksia Hill Detention Centre was estimated to be about 142 young persons, both males and females, ranging from a low of 111 to a high of 167.
11. Of those persons, on average, about 50% are held on remand.
12. The annual cost for the Sessional Members of the Board, other than the Chairman and Departmental Members, was $74,697 by way of fees for sittings, preparation and professional development.
# YEAR TO YEAR COMPARISON

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¹ The meetings described as by the secretary were decisions which were dictated by the terms of the YOA, without the need to convene a formal board meeting.
² Figures obtained from previous years are incorrectly reported in previous Annual Reports as they included the number of deferrals. This report includes the re-calculated numbers for each year according to correct counting rules.
³ See point 2 above.
### By the Board
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### SUSPENSION/CANCELLATION

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### INDIVIDUAL OFFENDERS CONSIDERED BY BOARD AND SECRETARY

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<th>184</th>
<th>187</th>
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</thead>
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<td>213</td>
<td>178</td>
<td>177</td>
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<tr>
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<td>8</td>
<td>6</td>
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</table>

### ABORIGINALITY BY GENDER

<table>
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<th>151</th>
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</thead>
<tbody>
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<td>163</td>
<td>168</td>
<td>146</td>
<td>130</td>
</tr>
<tr>
<td><strong>Female</strong></td>
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<td>7</td>
<td>5</td>
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</tbody>
</table>

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\[ It should be noted that years prior to 2014/2015 count only the number of detainees subject to such decisions. From 2014/2015 the figures include detainees who may have received multiple decisions during the year. \]