

Executive Summary

Circle sentencing was introduced in New South Wales on a trial basis at Nowra in February 2002. This report reviews and evaluates the first 12 months of the trial's operation. The Judicial Commission of New South Wales and the NSW Aboriginal Justice Advisory Council have worked together to produce this monograph with a view to describing the nature of circle sentencing, how it operates in practice, and the impact it has had on the cases dealt with by the circle court.

The evaluation reveals that circle sentencing at Nowra has succeeded on a number of levels. For example, this novel procedure:

- reduces the barriers that currently exist between the courts and Aboriginal people
- leads to improvements in the level of support for Aboriginal offenders
- incorporates support for victims, and promotes healing and reconciliation
- increases the confidence and generally promotes the empowerment of Aboriginal persons in the community
- introduces more relevant and meaningful sentencing options for Aboriginal offenders, with the help of respected community members
- helps to break the cycle of recidivism.

The penalties imposed by the circle are no less onerous than those imposed for similar offences in conventional courts. However as the procedure is less formal, the offender is more likely to “sit up and take notice” and appreciate the harm caused to the victim. In this regard there is generally an acceptance of responsibility as well as an apology for the offending behaviour — a platform upon which rehabilitation can be built.

Members of the community participate, not only in the sentencing decision, but with a preparedness to assist offenders develop pride in their culture and confidence in themselves long after they leave the circle.

A survey of the key participants (offenders, victims, lawyers, community representatives and support persons) revealed a high level of satisfaction with circle sentencing.

Ultimately, circle sentencing provides a recipe for changing offending behaviour and reclaiming offenders who might otherwise pursue a life of crime.

Having succeeded in Nowra it seems appropriate that circle sentencing should now be expanded to other regions of the State where there are viable Aboriginal communities and offenders with ties to those communities.[†]

[†] The first circle sentencing case to be convened outside Nowra, was heard on 26 August 2003 in Dubbo, NSW.

