

Hearing Impairment

Executive Summary

One in six Australians lives with some degree of hearing loss, and this is forecast to grow to one in four Australians by 2050.¹

Aboriginal and Torres Strait Islander people experience ear disease and hearing loss at nearly double the rate of the non-Indigenous population,² and research indicates that there are high levels of hearing impairment among Aboriginal and Torres Strait Islander prisoners across all jurisdictions.³

Hearing loss can impact an individual's language and behavioural development, leading to adverse outcomes such as low educational attainment, social dislocation and high levels of unemployment.⁴ Limited engagement in education and employment are factors which have been recognised as contributing to increased engagement with the criminal justice system.⁵

Other factors linking early onset hearing loss with criminal offending include the stigmatising effects of hearing impairment on self-concept and social skills,⁶ as well as the relationship between hearing impairment and interpersonal conflict, excessive alcohol use and violent altercations arising from misunderstandings or interactions with police.⁷

The potential relevance of evidence of hearing loss in sentencing proceedings includes an assessment of *moral culpability*; moderating the weight to be given to *general deterrence*; and determining the weight to be given to *specific deterrence* and *protection of the community*. There may also be issues relating to the likelihood of *hardship in custody*, a finding of *special circumstances* and the shaping of conditions to enhance prospects of *rehabilitation*.

Notes

¹ Senate Community Affairs Reference Committee, Parliament of Australia, [Hear Us: Inquiry into Hearing Health in Australia](#) (Report, May 2010) ('Hear Us Report') xiii.

² Senate Community Affairs Reference Committee, Parliament of Australia, [Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia](#) (Report, 29 November 2016).

³ Law Council of Australia, [The Justice Project: People Who Experience Family Violence](#) (Final Report, August 2018) 20, citing *Hear Us Report* (n 1) 147 [8.103].

⁴ House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, Parliament of Australia, [Doing Time – Time for Doing: Indigenous Youth in the Criminal Justice System](#) (Report, June 2011) 41 [4.22].

⁵ *Ibid* ch 8, 139; Australian Law Reform Commission ('ALRC'), [Pathways to Justice: An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples](#) (Report No 133, 2017) 63–4.

⁶ *Hear Us Report* (n 1) 139.

⁷ Troy Vanderpoll and Damien Howard, 'Massive Prevalence of Hearing Loss among Aboriginal Inmates in the Northern Territory' (2012) 7(28) *Indigenous Law Bulletin* 1, 5 (citations omitted).