

Speech Notes for Institute of Criminology Seminar, “Aboriginal Young People and Crime” -7 February 2011

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I shall begin with a disclaimer. During 2010 I had the privilege to Chair an Inquiry of the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs into the High Level of Involvement of Indigenous Juveniles and Young Adults in The Criminal Justice System. It was interrupted by the general election, at which time I retired, and a newly constituted committee will report quite soon. I will not anticipate its recommendations. Nevertheless, the reflections in this paper owe a good deal to what I heard during many hours of Committee hearings as they do to my experiences in public life over thirty years.

Twenty years ago the famous Royal Commission on deaths in custody told us that social and economic conditions were by far the most important underlying cause of Aboriginal offending. At this time in history, we don't have to argue the critical importance of 'closing the gap' strategies but we still do have a great deal to learn about effective ways to put them into practice – and I thank Kate and Anthony for doing it so exceptionally well.

There is not time to deal with the particular circumstances of remote northern Australia in today's short presentation but I will nevertheless mention some remarks made to the Parliamentary Inquiry by The Menzies School of Health in Darwin which, like Kate's Centre for Aboriginal Economic Policy Research at ANU, is producing some brilliant research insights which should be more widely known. There is, Menzies points out, a lack of research about youth perceptions of substance abuse and the links to mental health; about the best way to educate indigenous people about those issues; about how to best integrate community and government interventions; and about how to translate successful interventions into other settings. Among other urgent things!

Nevertheless we probably don't have to argue too much about the parameters of the problem of youth imprisonment. The not yet published NSW Young People in Custody Health Survey 2009 shows that 48% of the juveniles then in detention were Aboriginal and that 60% of them had a parent who had been in gaol; 38% of them had been in homecare. I need not go through the familiar and appalling details about low IQ, intellectual disability, multiple detentions, near universal alcohol abuse and failure at school. Their crimes were overwhelmingly robbery and violence. The NSW Bureau of Crime Statistics (BOCSAR) -- which turns out so often to be the real source of the statistics in publications all over the country-- has shown that if you are a young Aboriginal person between the ages of 10 and 14 appearing before a NSW court, there is a 60% chance that you will be in gaol in 8 years.

BOCSAR has also shown that by far the most important immediate factor in Aboriginal imprisonment is alcohol and drug abuse – abuse leading to violence, frequently family

violence. Crimes of violence are the quickest ways of getting to gaol. Disproportionate rates of violent crime are associated with disproportionate rates of recidivism and together they have a dramatic affect on the statistical rate of Aboriginal imprisonment. At least very recently the number of former Aboriginal prisoners re-entering the NSW prison system was higher than the number of newly sentenced prisoners. John McKenzie of The NSW Aboriginal Legal Service makes the melancholy observation that ALS is now dealing with the grandchildren of offenders it represented in the 1980s. There are short and long term cycles to be broken.

It is common ground that there is a need for a hierarchy of intervention programs. Early intervention programs for young people at risk –who are not yet entrenched in offending behavior--, will inevitably reflect the urban, regional or remote setting in which they are being conducted. The dividends from keeping 10 to 14 year old boys out of the justice system in any culture anywhere are self evident. We will hear about Tirkandi.

Very recently I heard Sam Jeffries, Co-Chair of The Centre for Aboriginal Excellence in Redfern and Shane Phillips of The Tribal Warrior Association speak powerfully of the strong response of young Aboriginal men to real life mentoring. The Court supervised program MERIT (Magistrates Early Referral into Treatment) is both favorably evaluated and strongly supported by magistrates. We now understand the benefits that could be had from adding an element of supervised treatment to Circle Sentencing proceedings.

Intensive and sustained interventions to break the habits of those already on the treadmill of imprisonment are good for everybody. There is sound international evidence for the considerable success of back-end prison- based programs directed towards substance abuse problems, education and employment to assist pre-release and post-release inmates. BOCSAR shows, actually, that the fastest way to reduce Aboriginal imprisonment is to cut the recidivism rate – a cut of 10% would take nearly 400 inmates out of the NSW prison system.

So far so good, but the Parliamentary Inquiry I have mentioned was addressed by a great many witnesses from the Aboriginal community and from specialist professions who wanted to lay emphasis on the trans- generational nature of the most recalcitrant problems. Nothing is entirely new in these matters but I think the present strength of the widespread perception of the need for trans-generational solutions to trans- generational problems has some significant policy implications.

Somebody like Richard Mathews, Deputy Director General of NSW Health, makes the irresistible case that “we need a broadly based program of child and maternal health” to reduce the number of children who are damaged emotionally in infancy. That is to say, you need a program that will help bust the cycle of inter-generational family dysfunction – to stop incompetent or abusive parents producing another generation of poor or violent parents.

I am in consequence acutely interested in the 4-year pilot Intensive Supervision Program begun in 2008 by NSW Juvenile Justice in Sydney and Newcastle. It uses the

internationally established model called Multi-systemic Therapy and targets kids with serious behavioral problems who also have a care-giver willing to take part in the program. A team of clinicians and an Aboriginal team leader (half the families on the program are Aboriginal) work intensively over 6 months or more to help families to deal with their particular problems and set them on a new course of life. There is a similar pilot in regional towns.

Reports of the program results so far are encouraging. If the final evaluation is favorable, then we are talking about a kind of program that has the possibility, over a generation, of interrupting the long term cycle of despair and dysfunction. There would be in that case strong social and economic justification for a very large investment to involve hundreds and even thousands of families in locations with high levels of disadvantage. We have to think of the inter-generational costs and remember that right now it costs \$200,000 and sometimes more to keep a young person in juvenile detention for a year!

The second most reliable indicator of Aboriginal behavior (a long way behind alcohol abuse) is failure to finish Year 12 at school. Federal “Closing the Gap” funding and the earlier NSW “Two Ways Together” Strategy seek to approach that issue and I acknowledge that the NSW Department of Education and Training has worked hard in the last five years or so to develop a substantial program which, for instance, has put 20,000 personalized learning plans in place for Koori kids across the State and achieved improvement generally in attendance rates –which I don’t think has happened before. Apart from wondering why Education specialists are so rarely at meetings like this, my present purpose is to draw attention to that part of the Department’s submission to the Parliamentary Inquiry which says that “reports from schools indicate that wherever they work successfully hand in hand with their local community Aboriginal student attendances and retention improve, as do other outcomes”. That is, when schools break out of their traditional, formal roles and participate more widely in the community-- relate to community leaders-- they often have the ability to bring about a general improvement in local conditions.

The recent study of the dramatically different crime rates in Wilcannia and adjacent Menindie by the Jumbunna Indigenous House of Learning at UTS draws attention to the similar role of Menindie Public School: “the strong relationship between the school and the Aboriginal community was identified as a key factor by interviewees inside and outside Menindie, with the school perceived as playing a key role in neutralizing disadvantage.” That school and others are taking part in the process, the local approach to improvement, which is called community development.

There are many program successes across the diversity of Aboriginal Australia and it is only fair to acknowledge that government agencies often have a great deal of difficulty recruiting staff to work in remote areas. Nevertheless, it is impossible to avoid the deep sense of frustration that Aboriginal people continue to feel about the administration of government services in many places. The Jumbunna study interviewed a significant part

of the populations of Wilcannia and Menindie and reported that “all but one of the interviewees [raised] the problems associated with disjointed, inappropriate, remote service delivery which was seen as undermining the building of community capacity or infrastructure. Short term program funding and remotely located staff of multiple federal and state government agencies and NGOs who do not operate in a planned or coordinated fashion were identified as persistent and significant problems.”

A service mapping survey by Central Darling Shire identified 46 human services being offered without a central point of coordination. That situation could possibly have improved with the recent appointment by the Federal Government of remote area service delivery manager to Wilcannia but in any event these complaints have been made despite a number of sincere attempts that I am personally aware of to improve government service coordination in that locality.

The problem of poor coordination is intractable. The ATSI Social Justice Commissioner Mick Gooda said this to the Parliamentary Inquiry “I have worked in government for 25 years and I am part of the problem. Forever we talked about the coordination of services to Aboriginal people. My observation is that the only place where coordination happens is the place that is least equipped to do it – that is in the Aboriginal community”. Mick went on to say that government should fund the community to coordinate or harmonise government and community-based services and I have come to the conclusion this will often indeed be the best solution.

There is another intractable and morale - destroying problem associated with government funding programs. It is about the way that government agencies and indeed big NGOs look after their own administrative needs before they look after the real life needs of their client organisations. Partly because of probity concerns, grant application processes have become incomprehensible in many agencies. The consequence is that those with insider knowledge have an undeserved competitive advantage. It's easier to give money to a big white NGO with its own bureaucracy than to a small black NGO that knows its own community but not the Departmental procedures – you know my bias is well founded.

During the course of the Parliamentary Inquiry most Aboriginal representatives in every jurisdiction wanted to talk about systemic failure in the delivery of government services and the need to give more responsibility to Aboriginal organizations--not least community justice groups. They wanted to reverse the government policy direction--especially the Commonwealth direction -- of recent years.

Government can actually improve efficiency and avoid many of the endemic problems of disjointed, inflexible, short term service provision by assisting Aboriginal organizations to increase their capacity to manage and harmonize government and non government service programs at the local level. This is not hands off “self determination” 1970 -style or it's top down opposite of 2006. This is an element in a method for allowing Aboriginal organizations and community members of to identify their local, particular needs and to seek to meet them on terms they accept, through a process they control and therefore to

be committed to the result. Its not a technique for choosing responsibilities over rights – it allows for a balance of both.

Of course government should directly provide the basic services to Aboriginal communities –schools and hospitals and law enforcement—but it will do so more effectively to the degree that it deliberately provides staff who are trained to understand the role that they can have in overcoming disadvantage if they show some respect for Aboriginal traditions and values and work in cooperation to give the community and its leaders a sense of shared responsibility. At the same time much cultural confusion can be avoided if it is understood that the law of the nation, including the law that children must attend school and the laws about sexual assault will be enforced. This is so in Redfern or Bourke or Fitzroy Crossing.

Experience tells us that community workers and government workers, including police, who are to work in remote areas especially, should be recruited and trained with the greatest care -- just as we do it when we are going to send somebody to work in Antarctica. Effective practitioners will also make sure that successful programs are as far as possible embedded so they don't die when somebody leaves.

Community development is a practice normal in international aid and poverty alleviation programs in villages around the third and fourth world. The method is supported by AusAID, The World Bank and the United Nations Development Program. I commend to you the publications of NGOs like Oxfam or Indigenous Community Volunteers (ICV) or the Centre for Aboriginal Economic Policy Research (CAEPR) at the ANU – unless you believe that parts of Aboriginal Australia have nothing in common with the third world. The Central Australian Land Council published a framework community development document a little over a year ago.

Of course the financial probity of the organizations must be ensured. I am well aware of past problems but don't see intensive form filling as the sensible answer. Wherever possible the Aboriginal organization and its leadership in town or suburb should be assisted to make a program within a flexible budget that will respond to the local circumstances. To be truthful I think Government could actually save a lot of money so long as Departments trained their own staff in the principles of community development and learnt auditing and continuous evaluation techniques framed to encourage it rather than stifle it.

So I suppose I could make this summary: early intervention starting with broken families; remedial school education; court and prison programs to break recidivism; community development strategies with improved capacity and greater responsibility for Aboriginal organizations – and lots more research.