Proceeding of the conference published on disk by
The Australian Institute of Criminology
GPO Box 2944
Canberra ACT 2601

http://www.aic.gov.au

ISBN 0 642 24147 3

© Australian Institute of Criminology 1999
Apart from any fair dealing for the purpose of private study, research, criticism or review, as permitted under the Copyright Act 1968 (Commonwealth), no part of this publication may in any form of by any means (electronic, mechanical, microcopying, photocopying, recording of otherwise), be reproduced, stored in a retrieval system of transmitted without prior written permission of the individual authors. Inquiries should be addressed to the publisher.
Papers presented at a conference convened by
The Australian Institute of Criminology
in conjunction with
Department for Correctional Services SA

Best Practice Interventions in Corrections for Indigenous People

Contents

Shading indicates the speaker did not provide a paper.

- Opening Address, The Hon. Trevor Griffin, SA Attorney-General
- Keynote Address, John Paget, Chief Executive, Department for Correctional Services, SA
- Compliance versus action, David Rathman, Chief Executive Officer, Division of State Aboriginal Affairs, SA

<table>
<thead>
<tr>
<th>Sentencing and Diversionary Programs</th>
<th>Education I: Literacy and Numeracy</th>
<th>Community Supervision Initiatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>A/Prof Rick Sarre, University of South Australia, An overview of the theory of diversion: Notes for correctional policy makers</td>
<td>Pat Hodgens, Institute of Koorie Education, Vic, Valued students, valued education</td>
<td>Frank Parriman, Community Based Services, Broome, WA, Aboriginal community supervision agreements in WA</td>
</tr>
<tr>
<td>Robert Vandenbergh, Department for Correctional Services, SA, Community based correctional schemes</td>
<td>Pam Gill, NSW TAFE, Overview of specific Aboriginal program support to inmates in New South Wales Correctional Centres</td>
<td>Robert Brown, University of Newcastle, NSW, Outreach service to Indigenous probationers</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sentencing and Diversionary Programs</th>
<th>Education II: Vocational Arts and Crafts</th>
<th>Community Supervision Initiatives II</th>
</tr>
</thead>
<tbody>
<tr>
<td>Darcy Turgeon, Department of Corrective Services, Qld, Aboriginal and Torres Strait Islander community placement centres</td>
<td>Joanne Selfe, Bathurst Correctional Centre, NSW, Girrawaa Creative Work Centre, Bathurst Cultural Program</td>
<td>Ken Middlebrook, NSW Department of Corrective Services, Overview of NSW Programs (Mobile Work Camps and Second Chance Program)</td>
</tr>
<tr>
<td>Dr Paul Chantrill, University of New England, Community initiative and reform in the administration of justice and corrections</td>
<td>Wendy Hunter, NT Correctional Services, Vocational training and education in Northern Territory correctional centres</td>
<td>Christopher Howse, NT Aboriginal Justice Advisory Committee, Customary law for 40,000 years: A pilot study abandoned</td>
</tr>
</tbody>
</table>
INDIGENOUS COMMUNITY EXPECTATIONS OF BEST PRACTICE

- **Commissioner Colin Dillon**, *Aboriginal and Torres Strait Islander Commission, Qld*
- **Dr Bill Jonas AM**, *Aboriginal and Torres Strait Islander Social Justice Commissioner*
- **Tauto Sansbury**, *Chairperson, Aboriginal Justice Advocacy Committee, SA*

<table>
<thead>
<tr>
<th>Violence I: Deaths in Custody/Victims</th>
<th>Accommodation Design</th>
<th>Working with the Community</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leonie Howe, <em>University of Warwick, UK.</em> Black deaths in police custody in the UK: A question of health or discipline</td>
<td>A/Professor Paul Memmott, <em>University of Queensland, Qld</em> Cultural issues in architectural design of Indigenous custodial facilities</td>
<td>Rosemary Wanganeen, Sacred Site Wulan Healing Centre, SA. Cultural healing – using grief and loss</td>
</tr>
<tr>
<td>Phillip Brown, <em>NT Correctional Services,</em> Design initiatives in the Northern Territory for Indigenous inmates</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Violence II: Behaviour Modification Programs</th>
<th>Indigenous Inmate and Support Perspectives</th>
<th>Juvenile Justice I</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professor Kevin Howells and Mitch Byrne, <em>University of South Australia</em> Risk, needs and responsivity in violence rehabilitation: Implications for programs with Indigenous offenders</td>
<td>Tony Lindsay, <em>Aboriginal Prisoners and Offenders Support Service Inc.</em>, SA. An Aboriginal inmate’s perspective</td>
<td>Alf Bamblett, <em>Aboriginal Justice Advisory Committee, Vic,</em> Bert Williams Diversionary Program</td>
</tr>
</tbody>
</table>
INTERNATIONAL EXPERIENCE AND BEST PRACTICE

♦ Mitch Kassen, Bowden Institution, Alberta, Canada, and Shirl Chartrand, Corrections Service of Canada,
  Aboriginal healing programs - An administrative perspective

♦ Dr Haami Piripi, Manager, Cultural Perspectives, NZ Corrections,
  Maori Suicide Review and Overview of Best Practice in New Zealand

♦ Associate Professor Chris Cunneen, Director, Institute of Criminology, Sydney University
  Law School, NSW
  Diversion and best practice for Indigenous people: A non-Indigenous view

BEST PRACTICE AS SEEN BY THE CHIEF EXECUTIVE OFFICERS

♦ Dr Leo Keliher, Commissioner, NSW Department of Corrective Services
♦ John Paget, Chief Executive, Department of Justice, Correctional Services, SA
♦ Terry Simpson, General Manager, Prison Services, Ministry of Justice, WA
♦ James Ryan, Director, ACT Corrective Services
<table>
<thead>
<tr>
<th>Health I: Suicide/Self-harm Prevention</th>
<th>The Need and Value of Visitor Schemes</th>
<th>Duty of Care/Risk Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ray Jackson, <em>Department of Justice, NSW,</em> Visiting schemes</td>
<td>Deborah Dawson, <em>Edith Cowan University, WA,</em> Risk of violence assessment: Aboriginal offenders and the assumption of homogeneity</td>
<td></td>
</tr>
</tbody>
</table>

**BEST PRACTICE INTERVENTIONS TO LIMIT ALCOHOL AND DRUG ABUSE AMONG ABORIGINAL PEOPLE**

♦ Dr Leo Keliher, *Commissioner NSW Department of Corrective Services*  
   Working with the community: Street-level strategies for difficult issues

♦ Scott Wilson, *Aboriginal Drug and Alcohol Council (SA) Inc*

<table>
<thead>
<tr>
<th>Health II: Partnerships in Indigenous Health</th>
<th>Families/Coronal Interventions</th>
<th>Alcohol and Drugs l</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professor Michael Levy, <em>Corrections Health Service, University of Sydney, NSW,</em> Partnerships for Indigenous health</td>
<td>Alastair Hope, <em>Coroners Court, WA,</em> Coronal Best Practice</td>
<td>Dr Nicholas Williams, <em>Adelaide Central Community Health Services, SA,</em> Foetal Alcohol Syndrome - what is it and what are the possible implications?</td>
</tr>
<tr>
<td>Joceyl Jones, <em>WA Office of Aboriginal Health,</em> Health and health services for Aboriginal prisoners in Western Australia</td>
<td>Anthony Newcastle, <em>Nättuj Pty Ltd, Qld,</em> Inside-Dreaming – a program for Indigenous inmates and their families</td>
<td>Bernard Meatheringham, <em>Department for Correctional Services, SA,</em> South Australian ending offending alcohol program</td>
</tr>
<tr>
<td>Health III: Mental Health</td>
<td>Elder Support Programs</td>
<td>Alcohol and Drugs II</td>
</tr>
<tr>
<td>--------------------------</td>
<td>------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>David Branson and</td>
<td>Darcy Turgeon,</td>
<td>Wendy Hunter,</td>
</tr>
<tr>
<td>David Bonynho-Wright,</td>
<td><em>Department of Corrective Services, Qld,</em></td>
<td><em>NT Correctional Services,</em></td>
</tr>
<tr>
<td><em>Black and White Consultancy, SA.</em></td>
<td>Aboriginal and Torres Strait Islander Family Support Program, Elders Visitation Program, Support Worker Scheme, Murri Chaplaincy and Cultural Interests Program</td>
<td>Programs for offenders with alcohol and drug related problems: Ending offending – our message</td>
</tr>
<tr>
<td>Tom Brideson,</td>
<td>Carmel Barry,</td>
<td>Klaus Walden-Baur,</td>
</tr>
<tr>
<td><em>National Centre for Epidemiology and Population Health, ANU, ACT; Mental health issues</em></td>
<td><em>Melbourne Assessment Prison, Vic,</em></td>
<td><em>Port Phillip Prison, Vic,</em></td>
</tr>
<tr>
<td></td>
<td>The Aboriginal Cultural Immersion Program</td>
<td>Report on the Pilot Project “Matters of Substance” conducted by Moreland Hall in Port Phillip Prison</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Health IV: Health, HIV and BBCD Strategies</th>
<th>Women’s Programs</th>
<th>Reconciliation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Les Bursill, <em>NSW Department of Corrective Services, Alcohol and violence</em></td>
<td>Debbie Kilroy and Liz Broderick, <em>Sisters Inside Inc, Qld,</em></td>
<td>Sally Goold, <em>Council for Aboriginal Reconciliation, Preventing deaths in custody</em></td>
</tr>
<tr>
<td>Darcy Turgeon, <em>Department of Corrective Services, Qld,</em> Aboriginal and Torres Strait Islander Sexual Health Program</td>
<td><em>The White Wall Syndrome: An Indigenous framework for practice. Operating within the women’s prison</em></td>
<td><em>Gabrielle Friebe, National Centre for Aboriginal and Torres Strait Islander Statistics, NT,</em> Accurate information equals effective interventions. Who and where are people of Aboriginal or Torres Strait Islander origin.</td>
</tr>
</tbody>
</table>
THE ABORIGINAL CULTURAL IMMERSION PROGRAM

Carmel Barry
Melbourne Assessment Prison, Vic

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Introduction

Thank you for inviting me to address this Conference. As a Victorian Aboriginal Yorta Yorta person, I must first pay my respects to the Kaurna people for allowing me to present this paper here in Adelaide.

The aim of this paper

The aim of this paper is to provide an overview of the Aboriginal Cultural Immersion Program that we have developed in Victoria through CORE - the Public Correctional Enterprise. The initial impetus for the development of this program was a keen desire to identify innovative and culturally appropriate ways of addressing the offending behaviour of indigenous prisoners. We discovered through research in New Zealand and Canada the possibility of addressing offending behaviour by cultural immersion. This supported the findings by CORE’s Indigenous Services Unit, that many Aboriginal and Torres Strait Islander prisoners had very little knowledge about or pride in their culture.

CORE and the Indigenous Services Unit – purpose, policies and programs

CORE – the Public Correctional Enterprise is a service agency within the Department of Justice and is the public provider of correctional services. Comprising ten prisons and a number of Community Correctional locations and reporting centres across the state of Victoria, CORE’s mission is to provide safe, secure, humane and cost-effective correctional services to prisoners and offenders and to provide opportunities for their rehabilitation on behalf of our customers.

CORE’s vision is to become the market leader in the supply of quality correctional services in Victoria.

The Indigenous Services Unit, a unit within CORE – the Public Correctional Enterprise, is located at the Melbourne Assessment Prison and provides a range of services to Aboriginal and Torres Strait Islander prisoners in public correctional settings (prisons and community corrections) in Victoria.

The Unit also provides services to staff including the provision of support, guidance, and information to staff working with indigenous prisoners and offenders, and facilitation of cultural awareness training.

CORE has always shown a deep concern for the numbers of Aboriginal and Torres Strait Islander people coming into the prison system over the years and has been aware of the ramifications of the issues raised through the Royal Commission’s Inquiry. As a result, many policies have been developed and programs have been introduced to assist Aboriginal and Torres Strait Islander prisoners cope more effectively with their sentence, and to minimise the likelihood of their re-offending.
Roles and Responsibilities of CORE’s Indigenous Services Unit

The role of the Unit is to:

- Ensure compliance with recommendations contained in the Royal Commission into Aboriginal Deaths in Custody.
- Provide support, guidance, information, assistance and training to staff at Prison and Community Correctional Services (CCS).
- Support indigenous prisoners in CORE prisons through regular visits, provision of information and other forms of assistance as required.
- Support indigenous offenders of Community Correctional Services through consultation to CCS staff, provision of information and other forms of assistance as required.
- Facilitate the maintenance of relationships between indigenous clients and their families or significant others.
- Establish, coordinate and maintain access to Aboriginal community agencies, for example, Community Justice Panels, the Victorian Aboriginal Legal Service, the Victorian Aboriginal Health Services, the Aboriginal and Torres Strait Islander Commission and other relevant indigenous community agencies.
- Identify, develop and evaluate programs that address the needs of indigenous clients.
- Provide information and advice in the preparation of a range of reports to Courts and the Adult Parole Board, and information advice to the Office of the Correctional Services Commissioner, Sentence Management Unit.
- Provide information to indigenous prisoners and their families regarding the Family Visits Program administered by Victorian Association for the Care and Resettlement of Offenders (VACRO) and facilitate referrals.
- Contribute to the development of policy in consultation with CORE in relation to indigenous offender and prisoner issues.
- Provide indigenous cultural awareness training to CORE staff.

All CORE prisons and Community Correctional Services have a local officer nominated as the Indigenous Services Officer. Their role is to liaise with the Aboriginal and Torres Strait Islander offenders about any concerns that they might have, including personal issues. Any major concerns are referred on to CORE’s Indigenous Services Unit. Other issues are managed locally. If the local Indigenous Services Officer requires support or advice, or if in their judgement the prisoner should talk to the staff of the CORE’s Indigenous Services Unit (on call 24 hours), then contact is made as a matter of urgency.

The local Indigenous Services Officers are the conduits between the prisoner/offender and the Indigenous Services Unit. They also work toward developing relationships with local Aboriginal community agencies encouraging their involvement with prisoners and offenders in their local community.
CORE has established a Committee called the Indigenous Services Reference Group. The Reference Group comprises senior CORE Managers, Program Managers, members of the Aboriginal and Torres Strait Islander community, the Community Justice Panel Coordinating Group (Victoria Police), Office of the Correctional Services Commissioner representation as well as ATSIC representation.

The Reference Group meets on a regular basis to discuss programs, applying the principles of self-determination and reconciliation. This Reference Group has strengthened the links between CORE and the Aboriginal and Torres Strait Islander community, providing an excellent forum for CORE to identify and develop culturally appropriate programs, to develop and strengthen networks within the indigenous and correctional communities, and to work towards an integrated service to indigenous prisoners and offenders.

One current development is a proposal to employ a Pastoral Care Worker who will provide spiritual care and comfort to those Aboriginal and Torres Strait Islander prisoners in times of distress arising from a death within the community.

Consideration of a Canadian program

The idea for the Aboriginal Cultural Immersion Program came from programs that were being delivered in Canada and New Zealand. In Canada in 1989, Public Servants were offered the opportunity to participate in an immersion program for the period of one month. It would be fair to say that one cannot automatically lift a program from one culture, or even another country, and impose it in another setting. So although the Canadian program was the basis of our thinking (in fact it was a language program), we had to ensure that our planning made the Aboriginal Cultural Immersion Program appropriate for CORE and for the Aboriginal and Torres Strait Islander prisoners and wider community. Their support was needed if the Program was to be a success.

Purpose of the Aboriginal Cultural Immersion Program

The purpose of the Aboriginal Cultural Immersion Program is to provide a program that encourages Aboriginal and Torres Strait Islander prisoners to develop their understanding of their cultural identity. The primary aim of the Program is to address the offending behaviours of prisoners and offenders and to ultimately divert the prisoners from further involvement with the criminal justice system.

The program is about steeping indigenous prisoners and offenders in their culture in the hope of reducing the risk of reoffending. It aims to address spirituality and identify issues through exposure to their culture. This exposure might affect the way the ATSI person sees him/herself. In turn, this might also reduce the possibility of further offending, given that offending behaviour is not consistent with (and indeed is alien to) a proud, honourable race.

It should be noted that the Aboriginal perspective is totally different from that of non-Aboriginal people. Aboriginal and Torres Strait Islander people learn through experiences rather than through conscious thought and analysis. Past experiences with prison environments (either their’s or those of others in their family) often make them reluctant to participate in prison programs, as these programs have failed to address issues and problems in a manner that is culturally appropriate. Thus participation and interest by Aboriginal and Torres Strait Islander prisoners has usually been minimal because they don’t relate to the
goals and expectations of the programs and services being provided, or to the people
delivering the programs. Programs and services have usually been developed and delivered
by non-Aboriginal people who often lack understanding of Aboriginal and Torres Strait
Islander culture and perspectives. Each program must be evaluated and adapted to meet the
specific needs of Aboriginal and Torres Strait Islander prisoners and in some cases, entirely
new programs and services must be developed and implemented.

The *Aboriginal Cultural Immersion Program* aims to provide the offenders with opportunities
to learn about Aboriginal culture in the 'Old Days and the Old Ways', focusing on how to
consider and solve problems without relying on violence, or on other unlawful activities
which ultimately lead to incarceration. This Program aims to assist Aboriginal and Torres
Strait Islander prisoners to adjust to every-day life without re-offending.

The Program is targeted towards prisoners with a minimum security rating. The popularity of
the Program now provides impetus for prisoners with medium and high security ratings to
work towards achieving the lowering of their rating – thus enabling them to participate.

**The Recommendations of the Royal Commission Inquiry**

In part, the *Aboriginal Cultural Immersion Program* was developed in response to the
This Recommendation relates to ensuring, as a matter of preference, that the implementation
of any policy or program which particularly affects Aboriginal people, is delivered by such
Aboriginal organisations that are appropriate to deliver services.

**The role of Elders in the Program**

The Program seeks the support of Elders and community based Aboriginal and Torres Strait
Islander agencies in the provision of culturally appropriate rehabilitation and/or diversionary
programs. This approach aims to provide practical coping strategies and networks that enable
the prisoners to return to and become part of their local communities when they are released
from prison.

Meeting with the Aboriginal Elders provides opportunities for the prisoners to speak with
them on a one to one basis – about their problems, or to just talk about their lives and
lifestyles in small discussion groups. Individual and group counselling sessions cover a wide
range of issues, including self worth, self esteem, advice about community programs and
education, drug, alcohol and solvent abuse, anger management, parenting and family living,
and alternatives to violence. Some prisoners ask about where to find out about their 'Family
Trees' because they don't even know who their families are because they were adopted or
fostered after birth.

For Aboriginal and Torres Strait Islander prisoners, the value of the Elders coming to meet
with them cannot be under-estimated in terms of their morale and self esteem. The expression
of the Elders' faith in them is felt by the prisoners, and acknowledged in the way the prisoners
treat them with respect.
The Program calls upon the assistance and support of Aboriginal Elders across Victoria to assist in the running of the Aboriginal Cultural Immersion Program over the intended weekend. Elders living near to the Prison where the Program is intended to be run are requested to participate. Fees for participating Elders are negotiated between the Elders and General Managers of CORE Prisons.

Another unforeseen benefit of the Program has been the involvement of prison staff and their recognition of the importance of the Elders, and the Program overall. Also, non-indigenous prisoners have discussed the fact that they were not aware that Aboriginal and Torres Strait Islander prisoners had a culture. They were most impressed seeing the Elders and the Aboriginal and Torres Strait Islander prisoners greet each other as if they had known each all their lives, even though they had just met. They were interested in the closeness and the sense of family that prevailed, and the commitments of the Elders to listen to and support the prisoners.

**Improving family relationships through the Program**

Another by-product of this Program is to facilitate and encourage positive relationships between Aboriginal and Torres Strait Islander prisoners who participate in the program and their family members, friends and partners. This includes treating each other with respect, listening to others’ views without displaying aggressive or violent behaviour and ensuring others’ rights or opinions are respected. The benefit of this approach is also evident in during the time that they are in prison. Behavioural changes, self esteem, proud of being Aboriginal or Torres Strait Islander.

At the end of the second day – in the afternoon - partners, wives and family members (including children) are invited and they become part of the Program’s activities. They join in the boomerang throwing and the playing of some didgeridoos. Staff also become involved and all taste some indigenous foods (eg emu and kangaroo meat) that are brought in to the prison by the presenters. This approach strengthens the linkages between the Elders and the families and enables the visitors to see that their partners in prison are people who are respected by the Elders who are wanting to meet with them. Thus there is a flow-on affect from the Program to family members as well, who may choose to make contact themselves with the Elders at another time.

**Planning the Program**

The planning for the Program was extensive, over a fifteen month period. There was wide consultation with the Elders in Victoria, and with those working in Aboriginal and Torres Strait Islander policy and program areas within Victoria – in government and in the community sectors. It was determined that the Aboriginal Community Justice Panels could run the Program. The Panels already provided a successful support service to prisoners and family members in courts, prisons and in the community. Aboriginal Community Justice Panels in Victoria has been in place for over ten years and has a proven track-record working with local Aboriginal and Torres Strait Islander communities. The first Aboriginal Cultural Immersion Program was conducted as a pilot at HM Prison Won Wron, a small minimum security prison in country Victoria in 1998.
The staff of the Sentence Management Unit in the Office of the Correctional Services Commissioner supported the pilot by ensuring that Aboriginal and Torres Strait Islander prisoners were appropriately placed to participate in the Program at Won Wron. This support has continued beyond the pilot, and prisoners can be transferred from one prison to another to enable their participation in the Program at that prison.

The plan was for Won Wron to provide an area where the prisoners could participate without any interruptions from other prisoners, and from other areas of prison operations. The identified area for the Program was cleaned up and prepared by the Aboriginal and Torres Strait Islander prisoners, to encourage their increased ownership of the Program. Also, their work was regarded as 'employment'; and so it was recognised as part of their work program for which they received income. So in this very practical way, the prisoners were not disadvantaged by their participation at this stage of the development of the Program. The Aboriginal and Torres Strait Islander prisoners were also invited to provide input into the design of the Program, once again increasing their ownership.

For the pilot, Won Wron ended up with four prisoners. It had been planned that the optimum good number would have been eight or ten prisoners. Just prior to the delivery of the Pilot Program, a couple of Aboriginal and Torres Strait Islander prisoners were released. It was decided that if the Aboriginal and Torres Strait Islander prisoner wanted to ask another prisoner to attend, who was not an Aboriginal and Torres Strait Islander, then the other Aboriginal and Torres Strait Islander prisoners had to agree with that other person attending. Two non-Aboriginal and Torres Strait Islander prisoners attended the pilot, and this made up the group numbers to six prisoners. Three Elders attended, along with some staff from the Won Wron.

The Program commenced with a Fire Ceremony conducted by one of the Elders who also nominated an Aboriginal and Torres Strait Islander participant as the Leader from that district/tribal area. The selection of this prisoner had an immediate impact on his demeanour. He changed from being a sullen and aggressive person to being a person who had newfound pride in his Aboriginality. These changes remained and his family and friends were delighted in the obvious changes. He spoke to them about the impact the Elders had on him and the interest that was shown towards him by them and by CORE. Prisoners also commented on the interest that the staff had shown in the Program. In the evening session, staff shared their feelings about their own workplace experiences and the fact that often the wider community regarded them and their work with low esteem. The prisoners were surprised at these discussions and the fact that the staff were able to share these feelings with them.

**Expansion of the Program**

The *Aboriginal Cultural Immersion Program* has now been expanded to include Community Correctional Services and involves the input of Aboriginal Elders and communities in the local area including the Aboriginal Community Justice Panel members from across Victoria. Recently Box Hill Community Corrections Services have requested support of the Wurrundjeri Aboriginal Community at Healesville to run the Program at an existing community work site, Clifford Park Scout Activity Centre. It is planned that the TAFE Horticulture program would design a 'significant spot' that aligns with the cultural requirements of the Aboriginal culture.
At this stage, three Aboriginal Cultural Immersion Programs have been conducted in CORE prisons in Victoria. These prisons are: HM Prison Won Wron in Gippsland, HM Prison Loddon in Castlemaine and HM Prison Dhurringile in the Goulburn Valley.

It is also intended in the near future that the Aboriginal Cultural Immersion Program will be run at Tarrengower, a minimum security women’s prison in Maldon outside Castlemaine. HM Prison Ararat (outside Ballarat, near Horsham) has requested meetings to be convened to discuss the delivery of an Aboriginal Cultural Immersion Program at this prison, as soon as possible.

Evaluation and sustainability factors

At the end of each Program, the participants have been asked to fill in a questionnaire about the Program, although it has been agreed that the participants do not have to include their name. The idea is to seek their feedback about what changes could be made to improve the Program. After the first pilot Program at Won Wron, the participants all agreed that the Program was a great success. They agreed that they would all put their names on the evaluation forms to make sure that their support for the Program was noted publicly.

A key success factor for all programs is to consider sustainability. It is important to the prisoners and to the staff that the developments are not ad hoc, but rather they are well planned and implemented in a way that supports the notion of continuous improvement. Consequently, CORE is currently reviewing its evaluation model, to further determine the impact of the program on offending behaviour.

Support for the Program has been gained from the staff who have been working in the prisons where the Programs have been delivered to date. It is evident that staff in other prisons and in Community Corrections locations are also seeking to become involved.

Numbers of Aboriginal and Torres Strait Islander prisoners

Numbers of Aboriginal and Torres Strait Islander prisoners currently in the prison system in Victoria remain high – 120 prisoners (male and female). Also numbers of offenders in Police Cells across Victoria remains high, with some of those being Aboriginal and Torres Strait Islander prisoners.

Information on statistics re prison populations and in particular, Aboriginal and Torres Strait Islander prisoners can be found in the ABS Publication “Prisoners in Australia, 1998’ (1999). The statistics are derived from the data held by the corrective service agencies in each State and territory. On 30 June 1998, Victoria has the smallest proportion of Aboriginal and Torres Strait Islander prisoners since 30 June 1991.
On 30 June 1998:

<table>
<thead>
<tr>
<th>In Victoria</th>
<th>Men</th>
<th>Women</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Numbers of ATSI prisoners</td>
<td>119</td>
<td>7</td>
<td>126</td>
</tr>
<tr>
<td>Average age of ATSI prisoners</td>
<td>29.2</td>
<td>28.5</td>
<td></td>
</tr>
<tr>
<td>Average age of non-ATSI prisoners</td>
<td>34.5</td>
<td>33.6</td>
<td></td>
</tr>
<tr>
<td>Aggregate sentence length</td>
<td>3.2 yrs</td>
<td>1.2 yrs</td>
<td></td>
</tr>
<tr>
<td>Known prior adult imprisonment episode of ATSI prisoners</td>
<td>79.8%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Known prior adult imprisonment episode of all male prisoners</td>
<td>63%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Offences for which Aboriginal and Torres Strait Islander prisoners were imprisoned in Victoria (30 June 1998)

<table>
<thead>
<tr>
<th>Offence</th>
<th>Men</th>
</tr>
</thead>
<tbody>
<tr>
<td>Break and enter</td>
<td>15.9%</td>
</tr>
<tr>
<td>Other theft</td>
<td>13.5%</td>
</tr>
<tr>
<td>Assault</td>
<td>11.9%</td>
</tr>
<tr>
<td>Sex offences</td>
<td>11.1%</td>
</tr>
<tr>
<td>Justice procedures</td>
<td>10.3%</td>
</tr>
</tbody>
</table>

List of sources


*Feedback from the participants in the pilot Aboriginal Cultural Immersion Program at HM Prison Won Wron. 1998/99.*


*Stats Flash –Indigenous Prisoners* Department of Justice, Criminal Justice Statistics & Research Unit, 14 August 98.

RISK OF VIOLENCE ASSESSMENT: ABORIGINAL OFFENDERS AND THE ASSUMPTION OF HOMOGENEITY

Deborah Dawson
Edith Cowan University, WA

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Abstract

As actuarial prediction of risk has advanced to assume a central role in correctional work, concern relating to ethical application has also developed. The paper will concentrate on the implications of assessing Aboriginal offenders risk of future violence using tools primarily designed for North American and Canadian non-Aboriginal psychiatric or general offending populations. The consequences of inappropriate application are far-reaching. From a civil liberties perspective low-risk offenders may be detained on the basis of high-risk status and community safety compromised by the release of high-risk offenders deemed low-risk. From a management perspective it becomes questionable if resources have been allocated effectively to reduce both offender and community risk. Thus, in this paper it is argued that the construction of population specific tools is intrinsically linked to ethical assessment, community safety and ultimately reductions in recidivism.

Introduction

The need to determine the risk of violent re-offending behaviour for placement decisions and diversion to limited programs has made risk prediction a core practice in correctional settings (Douglas & Webster, 1999; Ward and Dockerill, 1999). In this paper it is argued that actuarial risk of future violence tools should not be constructed on the premise of ethnic neutrality. The majority of risk of violence instruments have been developed in North America and Canada and have been based on the premise that risk markers do not vary as a function of ethnicity (Quinsey, Harris, Rice & Cormier, 1998). This calls into question their use in Western Australia where there has been limited investigation of risk markers that differentiate violent Aboriginal re-offenders from non-re-offenders despite an over-representation in violent offending and recidivism data (Broadhurst, 1997; Sarre, 1997).

This oversight is fundamental in terms of the accuracy and ethical application of risk tools. The accuracy of a risk tool is dependent on risk markers that best characterise the population of interest, which in turn minimises ethical concern with classifying risk on the basis of group characteristics. (see Brown, 1996; Clear, 1995, Gottfredson & Jarjoura, 1996; Tonry, 1987 for discussion of accuracy issues and the ethics of transferring risk tools). Despite these issues, Bonta, Lipinski and Martin (1992) have reported that investigations of minority ethnic groups have been primarily limited to comparisons between non-ethnic and ethnic offenders using existing risk tools. This type of comparison have done little to further the body of information concerning risk markers unique to ethnic groups or the differences between re-offenders and non re-offenders from the same ethnic group. In Australia investigation is warranted because of the considerable differences not only between Indigenous and non-Indigenous Australians, but also between Indigenous Australians and the validation samples used for other tools.

The Idiosyncratic Nature of Risk Markers

The Wisconsin Risk Instrument (Baird, 1981) is used here to demonstrate how risk markers can vary as a function of ethnicity and geographic location. The instrument has been used in Australia to assess the risk level of offenders in Victoria, Western Australia and South Australia. The risk items were selected through analysis of factors found to central to offending behaviour of probationers and parolees in the State of Wisconsin and has been widely used in North America (Glaser, 1987). The risk items of employment address changes, and motivation to change/willingness to accept responsibility are considered in the following. They are examined in the context of; the general circumstances experienced by Aboriginal
people during the period the tool was used in Western Australia; research conducted by the Broadhurst and Maller (1990) in Western Australia; research conducted on the Wisconsin risk tool by Wright, Clear and Dickson (1984) in New York; and research conducted on the Wisconsin risk tool by the author (Dawson, 1997) in Western Australia.

The employment item attracts a score of 2 points for under 40% employment in the past twelve months, a score of 1 point for 40-59% and a score of 0 points for 60% employment or if not applicable to the individual. In 1995 a survey of Indigenous employment participation indicated a 38% unemployment rate for Aboriginal and Torres Strait Islanders in comparison to a 10.5% unemployment rate of the general Australian labour force (Australian Bureau of Statistics, 1995). While rates varied as a function of Australian state and gender, a notable trend was found for 15-19 year olds, with the general Australian labour force having 23.8% unemployment in comparison to the 50% unemployment rate found for Aboriginal and Torres Strait Islander people.

Thus, should the item not differentiate between Aboriginal offenders that re-offend and those who do not re-offend the item effectively acts as an economic discriminator. Dawson (1997) found in a preliminary investigation of the Wisconsin Risk tool that employment did not mediate future offending outcome in a West Australian sample of Aboriginal offenders (N = 214). Similarly, Broadhurst and Maller (1990) found in a study of 16,381 prisoners that; "Some of the factors associated with lower recidivism of non-Aborigines were found to similarly affect Aboriginal rates of recidivism (eg … employment …), but the effects were slight and the absolute numbers were too small to affect overall recidivism". This finding has not been isolated, as Wright et al. (1984) also found that the percentage of time employed was unrelated to future offending outcome in a New York sample (N=366) of probationers using the Wisconsin tool.

The Wisconsin tool also rates risk on the basis of the number of address changes encountered by the offender in the twelve months previous to assessment. If an individual has moved address two or more times in the last twelve months they would attract a score of 3 points. Should they have had only moved once they would attract a score of 2 points and if not at they would obtain a score of 0 points. Again the likelihood on an Aboriginal person scoring high on this item is elevated in comparison to non-Aboriginal person due to disadvantage experienced by the wider population. The Aboriginal and Torres Strait Islander Commission (ATSIC) National Housing and Community Infrastructure Needs Survey, found that Indigenous families were twenty times more likely to be homeless than non-Indigenous families in Australia (Aboriginal & Torres Strait Islander Commission, 1995). Moreover, ATSIC stated in 1994 that the need for housing throughout the differing regions of Australia would take twenty years at current funding levels to redress.

Thus, like the employment item, high scores on the address change item would be expected considering the general circumstances experienced by many Aboriginal people. Dawson (1997) investigated the utility of this item in a Western Australian probation sample and found that number of address changes did not discriminate between Aboriginal re-offenders and non re-offenders. Broadhurst and Maller (1990) also found that accommodation did not affect recidivism outcome for Aboriginal offenders. However, this finding may simply indicate the irrelevance of the item in samples outside Wisconsin. Broadhurst and Maller (1990) found the same outcome for non-Aboriginal offenders in Western Australia and Wright et al. (1984) also found the same in a New York sample of probationers.
The Wisconsin Risk tool also includes an item used to assess motivation to change/willingness to accept responsibility for the offense committed. This item attracts a score of 0 points if the offender is motivated to change a score of 3 points if unwilling to accept responsibility and a score of 5 points if not motivated to change. Dawson (1997) found in her preliminary investigation of the Wisconsin items, that the item did not significantly predict re-offending behaviour in either Aboriginal or non-Aboriginal samples. Despite this finding, the item is particularly questionable as a risk marker for Aboriginal offenders as their experience of justice can be markedly different from that of non-Aboriginal person (Broadhurst, 1997; Sarre, 1997).

Many Aboriginal people are subject to both Australian law and their own conflicting system of law (Forrest & Sherwood, 1995). For this reason, "although Australian law does not recognise traditional law it is acknowledged by many judges, who take it into account when sentencing Aboriginal people" (Forrest & Sherwood, 1995, p. 15; Sarre, 1997). These conflicting systems represent a real challenge to assessing motivation to change or attitude toward the offense. Traditional law may involve an individual carrying out an act considered to be assault by Australian law, but in a paradox, be a justifiable act of punishment within the Aboriginal community (Forrest & Sherwood, 1995). Furthermore, the ability to accurately assess motivation or attitude may be hampered by Aboriginal views toward gender, age and topics that can be discussed outside the immediate family. It is considered improper for a younger person to have more authority than an older person or for women to work with Aboriginal men (Forrest & Sherwood, 1995). Domestic situations whether involving violence or not is considered to be the business of immediate family. This may also apply to the inter-family feuding that occurs in Aboriginal communities. This problem has been reported as reaching chronic levels with disputes spilling over into schools and prisons and almost always ending in physical violence (Australian Institute of Criminology, 1995; Australian Institute of Criminology, 1996). Thus, not only is it difficult to accurately assess motivation to change it is also likely to be influenced by interviewer characteristics and the context of the offence.

In reviewing just three of the eleven Wisconsin risk items it becomes evident that an Aboriginal person has the potential of obtaining a risk score of ten. A score of ten indicates medium risk and a score of fifteen or above indicates high risk. This outcome has profound implications when it is considered that the three items have not been found to be predictive of re-offending behaviour in Western Australian Aboriginal samples and other samples outside Wisconsin. These findings highlight two points. Firstly, some risk items should be considered population specific, and secondly, while certain items such as employment may discriminate between those of those who engage and do not engage in offending behaviour, such items are not necessarily predictive of re-offending behaviour in specific groups. Such outcomes provide a challenge to the assumption that risk markers can be considered uniform across offending populations (Quinsey et al., 1998) and at the very least, suggest current tools should be validated on minority groups prior to implementation.

Risk of Violence Tools

In Western Australia the only locally developed violence assessment tool has been the Violent Offender Treatment Program Risk Assessment Scale (VOTP RAS). This tool, although reported to be relatively accurate (.72 to .76 based on varying time-at-risk periods), was designed expressly to facilitate eligibility for treatment (Ward & Dockerill, 1999). To date the VOTP RAS has not been cross-validated and the reported accuracy rates based on a limited sample of 50 Aboriginal and 152 non- Aboriginal violent offenders. Furthermore, the authors
have suggested that the psychometric properties of the VOTP RAS should be considered with caution as only a single cohort was used to determine reliability, predictive accuracy and variable utility (Ward & Dockerill, 1999). While the VOTP RAS represents an essential advance in risk of violence prediction in Western Australia it nonetheless disregards ethnicity. As the authors suggest, "Factors such as cultural influences ... may affect the efficacy of the predictors" and the "accuracy of the VOTP RAS should be examined in respect to specific populations" (Ward & Dockerill, 1999, p. 137).

Other tools built outside Australia having similar or better accuracy are The Hare Psychopathy Checklist-Revised (PCL-R) and the Violence Risk Appraisal Guide (VRAG). The PCL-R was developed on a sample of mental health patients and has been reported as a strong measure of violence and recidivism in offenders (Hare, 1998; Rice & Harris, 1995). Although not originally designed for this purpose it has manifested as a one of the most widely used measures of violent recidivism in correctional populations (Rice & Harris, 1995; Rice). A recent study conducted by Salekin, Rogers, Ustad and Sewell (1998), however, has suggested that validation on specific groups is warranted. Using Receiver Operating Characteristics (ROC), Salekin et al. (1998, p. 124) found for a female group of offenders, the PCL-R was at best a modest predictor of recidivism (area under the curve .64) and based on the odds ratio, the measure "did not provide much information beyond chance regarding the prediction of recidivism". While it continues to be reported as a strong measure of recidivism in males, such outcomes challenge the use of the PCL-R on populations that it has not been validated for. To the author's knowledge this has not been undertaken with Australian populations, much less Indigenous Australian populations.

Unlike the PCL-R the VRAG was designed with the intent of measuring risk in violent populations and constructed as an actuarial risk assessment tool (the PCL-R is a clinical rating scale) (Quinsey et al., 1998). The construction sample consisted of 618 male offenders who had been patients at Oak Ridge Psychiatric facility in Ontario. The VRAG contains twelve variables one of which is the PCL-R score (Rice & Harris, 1995). While the VRAG has been found to be a robust predictor of violent re-offending, it has been found to be less predictive of sexually violent re-offending. In a paradox the authors (Quinsey et al., 1998, p.29) have designed a tool (Sexual Offender Risk Assessment Guide) specifically for this group despite their claim that predictors related to violent re-offending "do not vary as a function of the type of population studied". Thus, both the PCL-R and VRAG are questionable sources of assessment without validation on Australian offenders as they have been shown to be less accurate or not predictive of risk in populations differing from the validation sample.

Summary

The research on ethnicity, gender and geographic location reinforce the need to investigate the utility of predictors in the population of interest. The broad use of classification systems is limited by the varying predictive utility of risk markers across offending populations. Moreover, it would appear that some risk markers (such as employment) found to discriminate between offending behaviour and non-offending behaviour do not necessarily discriminate between offending behaviour and re-offending behaviour. The consequence of disregarding such findings raises not only serious ethical concerns, but also has implications for the allocation of resources. From a civil liberties perspective low-risk offenders may be detained in custody on the basis of a high-risk score and community safety compromised by the release of high-risk offenders gaining an inappropriate low-risk score. From a management perspective it becomes questionable if rehabilitation programs, community
supervision and prison placement have been allocated effectively to reduce both offender and community risk. As Tonry (1987, p.367) has reported, while risk assessment has substantial benefits for correctional work, such benefits must be balanced against; “their disparately harsh impact on minorities”. Such disparity can only be tempered by purpose built assessment methods for minority offender groups such as Indigenous people.

References


DIVERSION AND BEST PRACTICE FOR INDIGENOUS PEOPLE:
A NON-INDIGENOUS VIEW

Associate Professor Chris Cunneen
Director, Institute of Criminology
Sydney University Law School, NSW

David McDonald
National Centre for Epidemiology and Population Health
Australian National University, ACT

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference
convened by the Australian Institute of Criminology
in conjunction with Department for Correctional Services SA
and held in Adelaide, 13-15 October 1999
Introduction

In this paper we are not concerned with the content of any particular diversionary programs, rather we are interested in considering the values, principles and process through which programs are established. We argue that a concentration on values, principles and process will have a significant impact on the longevity and success of programs.

• By ‘values’ we mean ethical and moral considerations - what we believe to be, and what is generally accepted as right and wrong, good and bad.
• By principles we mean the rules that govern conduct and action.
• By process we mean the way in which programs are operationalised or put into practice.

Modern approaches to public management focus primarily on outcomes and, less frequently, on longer term and deeper impact. Less commonly is systematic attention given to the processes which underlie program development, implementation and evaluation. Even more rarely do we see policy makers and program managers discussing explicitly the principles and values which underlie their work.

Thinking through issues relating to the values and principles underpinning programs, as well as process means that successful implementation of programs can be achieved although the style and content of programs can change to suit the particular needs and circumstances of different communities. Thus we are not suggesting that there are simple blueprint models of programs that can be adapted out of context. However, what can be developed as a blueprint is the process and the principles and values that are embedded within it.

The Enhancement of Human Rights as a Fundamental Value

We argue that the enhancement of human rights provide the core value underpinning the discussion of principles and process. Human rights refer to both collective and individual rights.

• It is the collective rights of Indigenous people that we are primarily, although not exclusively, concerned with in this paper. These collective rights flow from the political status of Indigenous people as first nations and original owners of the land.
• Human rights also include the rights of particular groups within Indigenous societies, particularly the rights of women and the rights of children. Sometimes these rights may be in conflict.

Indigenous rights are being increasingly supported through the developments of international standards. The best place to begin to understand the emerging human rights norms which reflect the aspirations of Indigenous people is in the United Nations Draft Declaration on the Rights of Indigenous Peoples. This Declaration contains a number of basic principles, including self-determination, which directly impact on how justice programs might develop which are respectful of Indigenous rights. Indigenous human rights cover a broad range of areas which are in the first instance, developed to ensure the autonomy of, and the cultural and physical survival of Indigenous peoples as distinct peoples.

---

1 Parts of this paper have been developed from other joint work, including a paper ('Avoiding Assumptions and Respecting Rights: Restorative and Indigenous Justice') with Evelyn Zelleher, University of Florida, and an evaluation report (Evaluation of Young Offenders Pilot Diversionary Program) prepared for ATSIC by Keys Young consultants.
The draft Declaration affirms 'the right of Indigenous people to control matters affecting them' including the right of self-determination. Article 3 describes the right of self-determination as involving the free choice of political status and the freedom to pursue economic, social and cultural development (it is established in the same terms as Article 1 of the ICCPR). Article 4 provides that 'Indigenous peoples have the right to maintain and strengthen their distinct political, economic, social and cultural characteristics, as well as their legal systems [emphasis added]'. Article 31 sets out the extent of governing powers of Indigenous peoples which include the right to autonomy, or self-government in matters relating to their internal and local affairs. Taken together, it is clear that the Draft Declaration provides the basis for Indigenous people to maintain cultural integrity and exercise jurisdiction over various justice matters. At the same time the provisions provide for the right of Indigenous people to participate fully, if they choose, in the political, economic, social and cultural life of the state.

The draft Declaration also protects Indigenous peoples from genocide through prohibiting the separation of children from their families 'under any pretext' (Article 6). This prohibition is of clear relevance to the contemporary removal of children and young people through both child welfare and juvenile justice mechanisms. Article 7 (d) prohibits 'any form of assimilation or integration by other cultures or ways of life imposed on them by legislative, administrative or other measures'. Such a provision also has implications for juvenile justice and adult criminal justice programs which may seek either directly or indirectly to impose the standards and socio-cultural mores of the dominant group on Indigenous peoples.

Human rights also include the rights of particular groups within Indigenous societies, particularly the rights of women and the rights of children. Sometimes these rights may be in conflict. We should not avoid these issues but rather deal with them openly and frankly. All communities can have conflicts over competing rights. The need is to develop measures that deal with these conflicts fairly and equitably. Particularly in the area of justice programs, differing perspectives on issues may be exposed when Aboriginal women discuss them rather than Aboriginal men. There are not only power imbalances between Aboriginal communities and government but also within communities. Aboriginal women have been disempowered along with men, but within a context which is gender specific. Particularly in the area of justice initiatives we need to consider the impact of any changes on Indigenous women.

There are many international conventions which contain rights relating to Indigenous people and the justice system including CROC, ICCPR and CERD. These cover many rights including the right to be heard, the right equal treatment before the law, and so on. In terms of the current discussion on best practice and the criminal justice system, perhaps there are two fundamental values which underpin many of these specific rights. They are the elimination (or reduction) of the relative disadvantage of Indigenous people (compared to others) in the various domains of the criminal justice system; and the greater use of diversion from the criminal justice system, particularly from incarceration. Thus equitable treatment and diversion are held as values in themselves.

In summary, we argue that the enhancement of human rights provide the core value underpinning the discussion of principles and process. The enhancement of human rights also provides us with a useful (and ethical) criteria for the following discussion of what we see to be the essential principles underlying effective diversionary programs.
The principles we have identified include the following

1. **Principles underlying recognition of Indigenous rights**
   
   - **Negotiation.** Open negotiation with Indigenous communities and their organisations by government;
   
   - **Recognition and respect.** Respect for Indigenous peoples and their cultures and recognition of their distinct sovereignty;
   
   - **Self-determination.** Relinquishment by government and their departments of their assumed right to make decisions for Indigenous peoples;

2. **Principles underlying program implementation**
   
   - **Effectiveness.** A focus on program or project effectiveness leads us to ask questions about how realistic the proposed program actually is.
   
   - **Equity.** Programs should have an explicit goal, we suggest, of enhancing equity between individuals and groups.
   
   - **Balancing individual and group focuses.** Citizenship is a concept emphasising collective, as well as individual, rights and responsibilities.
   
   - **Avoiding stigmatisation.** Programs should lead to social reintegration.

3. **Principles underlying successful process**
   
   - **Secure funding.** Ongoing practical support for communities to remedy the problems of social and economic inequality - an approach that relies on community building;
   
   - **Recognising Community Limitations.** A commitment by governments to facilitating solutions that are acceptable to Indigenous communities.
   
   - **Understanding the Parameters of Program Evaluation.** There need to be specific considerations when evaluating Indigenous community-based diversionary alternatives.

We deal with each of these issue in more detail below.

1. **Principles underlying recognition of Indigenous rights**

It may come as some surprise to readers that Australian Governments have been committed to negotiation and self-determination in program and service delivery for Indigenous people for sometime. We should remind ourselves of the 1992 commitments made by all Australian Governments to a set of basic principles underlying the relationships between Indigenous peoples and Governments regarding service development and delivery.

Soon after its inception, the Council of Australian Governments (COAG) endorsed a statement called the *National Commitment to Improved Outcomes in Program and Service Delivery for Aboriginal Peoples and Torres Strait Islanders*. The significance of this so-called National Commitment is that COAG is composed of the Premiers and Chief Ministers of each state and territory and the Prime Minister of Australia. They sit at the conference table each with one vote. COAG’s resolutions are consensus statements. The National Commitment states, in part, as follows:
The Governments of Australia, in making this National Commitment, have as guiding principles:

4.1 empowerment, self-determination and self-management by Aboriginal peoples and Torres Strait Islanders;

4.2 economic independence and equity being achieved in a manner consistent with Aboriginal and Torres Strait Islander social and cultural values;

4.3 the need to negotiate with and maximise participation by Aboriginal peoples and Torres Strait Islanders through their representative bodies, including the Aboriginal and Torres Strait Islander Commission, Regional Councils, State and Territory advisory bodies and community-based organisations in the formulation of policies and programs that affect them;

4.4 effective coordination in the formulation of policies, and the planning, management and provision of services to Aboriginal peoples and Torres Strait Islanders by Governments to achieve more effective and efficient delivery of services, remove unnecessary duplication and allow better application of available funds; and

4.5 increased clarity with respect to the roles and responsibilities of the various spheres of government through greater demarcation of policy, operational and financial responsibilities.

This National Commitment, while recognising and incorporating some important principles, paradoxically also has a paternalist flavour to it: it is still one-sided, focusing on the activities of government agencies rather than on mutually respectful cooperative action. Nevertheless, if we had seen a genuine acceptance of these principles by the leaders of Australia’s Governments and by the officials responsible for advising them and implementing government policies, the amount and types of services that would be available today (seven years after the National Commitment was entered into) would certainly be far better than today’s reality. This so-called National Commitment faded into the background virtually as soon as it was signed off. One would need to search hard to find either politicians or senior public servants in mainstream agencies who are both aware of the National Commitment and who explicitly apply it in their day-to-day work.

Three years after COAG made its National Commitment various agencies made submissions to the Commonwealth Government about Indigenous social justice. This was done in the context of the High Court’s decisions on native title. The government of the day embraced the High Court’s decisions and, to its credit, also recognised that other actions were needed to help meet the needs of those thousands of Indigenous people who, because of past dispossession from traditional lands and the extinguishment of native title, would not be able to enjoy the benefits flowing from Mabo. Accordingly, the Commonwealth Government announced its intention to establish an Indigenous Land Fund and far reaching social justice measures. In this context, in March 1995 the then Chairperson of ATSIC, Dr Lowitja O’Donoghue, submitted to the Prime Minister, Mr Paul Keating, a paper titled Recognition, Rights and Reform: A Report to Government on Native Title Social Justice Measures (the ‘Three Rs Report’). Like the National Commitment referred to above, that submission included a list of ‘guiding principles’ which, in the view of the ATSIC Commissioners (following extensive consultation across the nation with Indigenous communities and organisations) should be adopted by all governments as a basis for the relationships between
governments and Indigenous peoples. Those principles are listed in the appendix to this paper. It will be noted that they cover similar ground to the COAG principles but go further. In addition, they are based on a recognition of the fundamental rights of Indigenous peoples, especially the right to self-determination, and explicitly apply this recognition to shaping the relationships between them and other Australians and Australian institutions.

There has been a great deal of discussion on the issue of self-determination in Australia over the last decade. The principle can be seen at the core of a wide range of Indigenous demands. Most recently the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families (NISATSIC 1997) developed a range of recommendations specifically in regard to child welfare and juvenile justice around the issue of self-determination.

At a more general level self-determination has been linked with issues of self-government. The Northern Territory Aboriginal Constitutional Convention found that some of the principles important to Aboriginal self-government included the following

- Aboriginal people must design the principles
- Aboriginal people cannot rely on anyone else except themselves
- Principles must concentrate on what happens in everyday life
- Powers cannot be violated by external governments
- Must reflect traditional ways
- Land rights and self-government must mirror each other
- Must be able to control the future of the land
- Must be able to sort out the current forms with the traditional forms of government
- Equality and sharing amongst Aboriginal people
- Every aspect of self-government to be tied to our economic future
- The division of power starts at clan/land trust level

The Convention found that no single approach or model will meet the needs or aspirations of all Aboriginal people. Each community should be able to determine the form of government, the process for establishing it, and the priorities and level of service. Funding should be compatible with the economic circumstances of the community. In matters of national interest (for example, health) funding should be conditional upon agreement. In matters of local priority (for example, recreation or road maintenance) funding should be unconditional.

We could elaborate Indigenous perspectives on self-determination at great length. However, the essential points are clear. In summary, there has been widespread demand for self-determination by Indigenous people and their organisations, and the general framework in which it might be implemented has been discussed in legal, administrative and practical detail.

---

2 This approach has been a characteristic of Indigenous peoples' struggles throughout the final decades of the century in other nations as well as Australia. Havemann (1999, p. 472) calls it 'a new notion of citizenship', which 'stresses self-determination by collectivities, cultural diversity, and pluralism'. This has to be reconciled, he argues, 'with the older notion of citizenship, which depends on equal rights shared by bearers of a homogeneous cultural entity, which in turn was synonymous with the State'.
2. Principles underlying program implementation

Effectiveness

Another set of principles focuses more on program implementation. The first of these is effectiveness, a concept which draws our attention to goal attainment. A focus on program or project effectiveness leads us to ask questions about how realistic the proposed program actually is. Given the context, the needs and the resources of money, time and expertise, how likely is it that the project will, in fact, achieve its goals? What makes effectiveness a principle underlying program and project development and implementation (rather than a straightforward operational issue as is, for example, the consideration of program/project efficiency) is this: it is unethical, we suggest, to embark on a project without good reason to believe that it has a reasonable chance of success. Far too often we see programs failing because they have been implemented in a rush without adequate human and material resources. Not only is this wasteful, but it also produces negative unintended consequences not least of which is the creation of a sense of failure on the part of the people involved and a concomitant hesitation to engage in future initiatives.

Equity

The principle of equity is also important. Programs should have an explicit goal, we suggest, of enhancing equity between individuals and groups. One of the outcomes for Australia of the antics of the One Nation party has been a deeper understanding of the term equality. ‘All Australians should be treated equally’, One Nation trumpets. What they actually mean, of course, is to attack the poor, the dispossessed and the disadvantaged. ‘Equal treatment’ is (for One Nation) code for winding back initiatives aimed at overcoming the legacy of past practices and the adverse consequences of current practices which, often in combination, produce such awful outcomes for so many Indigenous people (as well as for other disadvantaged Australians). As Pat Dodson (1999) said recently in his Lingiari Memorial Lecture, ‘The hard men of Vestey’s still walk the corridors of power’. Within the concept of equity, then, is the imperative of overcoming relative disadvantage and doing so through affirmative action.

Balancing individual and group focuses

Balancing individual and group focuses is also an important principle. Havemann (1999) has reminded us that, for many Indigenous people in Australia, New Zealand and Canada, citizenship is a concept emphasising collective, as well as individual, rights and responsibilities, and that there are collectivities more important to Indigenous people than is the State. Program development, then, needs to be sensitive to the desires, needs and resources of groups and organisations as well as to individuals. For many in the criminal justice system this is a radical suggestion. After all, our criminal justice system with its emphasis on the detection, prosecution and punishment of offenders has evolved as intensely focused on the individual—the individual offender—more-or-less divorced from her or his social context. The problems of this, particularly for Indigenous people, have become apparent.

Avoiding Stigmatisation

Linked to this is the principle of avoiding stigmatisation. In Crime, Shame and Reintegration Braithwaite (1989) clarified how criminal justice system processes that stigmatise the offender can have outcomes far worse than those that aim to create change in the offender leading to social reintegration. Indeed, the restorative justice movement which is so strong nowadays owes much to Indigenous modes of dealing with offenders. This is a strength upon which we should build, rather than see it as something lying outside of the usual way of dealing with crime and offenders.
3. Principles underlying successful process

Secure funding

Indigenous communities are embarked on healing and revitalisation – there is an enormous amount of commitment and energy to finding solutions to issues which affect communities. Governments have an obligation to assist community development. As Hazelhurst (1995:ix) argues, ‘the beginning of wisdom lies less in government initiatives than in the regeneration of communities. Re-empowered peoples can do for themselves what no outsiders, however well meaning, can do for them.’ This requires political will and investment. Government must be prepared to provide the necessary resources and support for community development.

Government must provide financial and human resources in support of Aboriginal justice initiatives. In terms of financial obligations, there are a number of issues. The nature of Aboriginal societies and approaches often defy government imposed criteria. Indigenous communities often note that funding proposals do not fit government guidelines for funding. It is often difficult to get mainstream Commonwealth or State departments to provide core funding because the activities stretch across various areas relating to employment, training, health, housing, heritage, culture and legal rights. In other words the strengths of a diverse program for Indigenous people at the same time work against core funding from mainstream departments.

A holistic approach of a particular community program while being the reason for its effectiveness can cause funding problems. If an activity can not be fitted into social services, recreation, crime prevention, or cultural programs, obtaining funding can be difficult. In this context it is imperative that government departments look for reasons to say yes to Aboriginal projects and programs instead of finding reasons to say no.

Government need to develop flexible and creative approaches to funding Indigenous initiatives. This will entail coordination between government departments. It is also not a matter of simply throwing money at a problem and expecting quick results. Money alone will never solve problems or lead to a viable justice initiative. Human resources are also required from both without and within communities. Resources include such things as committed individuals willing to take on the responsibility of an initiative, education, training, and professional expertise.

Recognising Community Limitations

Recognising Indigenous rights does not mean ignoring the complex realities of contemporary Aboriginal communities. Although Indigenous peoples maintain their unique cultural traditions, we need to be careful not to romanticise Indigenous communities. A number of factors, including colonisation, have dramatically altered Aboriginal communities. Many communities suffer from high rates of crime, violence, substance abuse, suicide, and unemployment.

It is also unrealistic to assume that all communities have the capability to confront crime, especially violence. Communities without infrastructure and resources to deal with these kinds of issues are likely to be swamped dealing with the magnitude of problems. It is both unfair and unrealistic to expect communities to be able to confront offenders and support victims by simply giving them the responsibility to do so.
Understanding the Parameters of Program Evaluation

Too often overlooked is the fact that many different evaluation models exist. (Wadsworth (1991) lists some 70 different models!) Early approaches to evaluation emphasised measuring program activities. Later the assessment of goal attainment became prominent and many government agencies have become fixated on this single model. It is clear, however, that goal attainment models of evaluation are appropriate in some settings but not in others. A particularly problematic feature of this approach is its inability to deal with unintended consequences (both positive and negative) of the program being evaluated and with the everyday reality of unclear and changing program goals.

Contemporary evaluation models that focus on the value—the real worth—of projects (rather than the mechanical measurement of the extent to which goals have been attained) have been found to be useful. Furthermore, what some people are calling the ‘fifth generation’ of evaluation, models which emphasise self-evaluation and mutually respectful collaboration between stakeholders, has particular resonance for Indigenous correctional and diversionary programs. These emerging approaches seek to overcoming the many problems associated with external evaluations which so often end up in victim-blaming; approaches which make little or no positive contribution to program effectiveness nor to enhancing the skills and confidence of the people who designed and implemented the program.

Some of the specific issues which have arisen in relation to evaluating Indigenous diversionary programs are discussed below.

Aims, Objectives and Clear Documentation

Projects need to have clearly defined aims and objectives which spell out the strategies that are going to be used. A clear sense of purpose is important to give the project a focus which is essential for staff and clients. Indigenous-run diversionary projects need clear documentation on the referral process—who is in the program, where they are coming from, and where they go after completion.

Flexibility and Range of Interventions

The aims of a project may change somewhat in their focus to meet identified needs as the project progresses. Flexibility can be a strength in developing diversionary projects that are relevant to clients. Flexibility also relates to developing ideas about diversion. Government departments tend to have a narrow notion of diversion, yet Indigenous people regularly speak of the need to divert those who are ‘at risk’ of offending as well as though already drawn into the formal criminal justice system. The range of interventions may involve activities which are not normally considered within a diversionary framework (eg home and visits for young people).

Widespread Referral

Referrals may reflect widespread use of the service from a range of community and Government organisations. Those referring clients may not be the agencies traditionally identified with the criminal justice system (eg land councils, cultural centres, etc).
Widespread Acceptance and Utilisation: Credibility

Acceptance by the Indigenous community is a key to success for diversionary projects — without the process of referral is likely to be flawed, and community support is likely to be missing.

Acceptance by non-Indigenous organisations is also essential where government agencies are responsible for referring clients and providing other services. The issue of official recognition and legitimacy is a key issue for any Indigenous community-based program. There are clear advantages for programs run by Indigenous organisations if they are accepted by the non-Aboriginal mainstream departments. However, gaining this recognition can be problematic. On the one hand, the strength of being an Aboriginal organisation providing services for Indigenous people as far as Indigenous communities and young people are concerned, can also be a weakness from the point of view of non-Aboriginal bureaucracies.

Understanding heritage and culture

The running of cultural programs is likely to be a key part of a successful program. This has been identified as an important part of successful programs, particularly through recognising the link between improved individual self-esteem and an emphasis on heritage and culture.

External Support

ATSIC and government agencies often fund pilot projects. By their nature, these are often unstable. Workers on pilot projects have to ‘make their own path’ which is more difficult than simply operating an existing structure and program. Pilot projects are often on a steep learning curve in terms of developing effective programs.

Funding agencies can assist with assistance in establishment planning (duty statements, formalised relationships with mainstream agencies, etc.), adequate provision of staffing levels, training and infrastructure, and realistic budgets.

Measuring Outcomes

There is a need for recognition of the broad context of diversion programs — often their strength is not immediately measurable. It may be difficult to quantify any reduction in repeat offending except at the anecdotal level. It is important to remember that few government agencies have a measure of how well they do at reducing recidivism.

Auscping Body

Diversionary projects can be run out of a range of community-based organisations. Providing the project is administered efficiently with due accountability, there is no reason why a range of organisations might not be involved as an auspicing body. There is no single type of Aboriginal organisation that is specifically equipped for this task for diversion. Potential existing organisations which might run diversionary projects include elders groups, heritage and cultural groups, CDEP programs, youth groups, Aboriginal Legal Services and existing diversionary programs (eg night patrols, residential centres, etc).
Conclusion

What we are looking to provide in this paper is policy analysis of Indigenous programs which is sensitive to the values and principles which Aboriginal people have been advocating as important. We want to broaden the notion of best practice beyond what might be seen as narrowly technocratic concerns. What we are suggesting are broader criteria for judging ‘best practice’. This is not to abandon criteria such as ‘effectiveness’, but it is to frame such criteria within principles of self-determination and values of human rights.

There are no simple blueprints for ‘best practice’ although there are successful examples. The lesson of successful Indigenous community justice responses is efficient, practical and ongoing support from governments to facilitate communities in the difficult process of finding acceptable solutions to the problems facing Indigenous young people. There will also be difficulties in developing Indigenous justice processes which will need to be overcome. These will include

- The extent to which there is an identifiable Indigenous community with identifiable interests. Indigenous people in Australia live in many different circumstances with varying levels of interdependent networks.
- How will differences and conflict between Indigenous groups be settled? Who should be the decision-makers?
- How will Indigenous jurisdiction impact on non-Indigenous offenders and victims? Where will the location of power reside?

Not all communities will answer these questions in the same way, nor is there any reason to think they should.
References

Social Justice Measures, Dr Lowitja O’Donoghue, Chairperson. Canberra, ATSIC.

Press.

Dodson, P. (1999). Lingiari - Until the Chains are Broken. Fourth Annual Vincent Lingiari

Havemann, P. (1999). Indigenous Peoples, the State and the Challenge of Differentiated
Citizenship: A Formative Conclusion. Indigenous Peoples’ Rights in Australia, Canada


NISATSIC 1997, Bringing Them Home, Report of the National Inquiry into the Separation of
Aboriginal and Torres Strait Islander Children from Their Families, HREOC, Sydney.

Social Service and the Melbourne Family Care Organisation in association with Allen
& Unwin.
Appendix

Extract from *Recognition Rights and Reform: A Report to Government on Native Title Social Justice Measures*, submitted to the Prime Minister by Dr Lowitja O'Donoghue, March 1995

The Draft Principles

1.26 The following draft principles are intended for adoption by the Government as the foundation for its relations with indigenous people. They should be promulgated throughout the Commonwealth Government sector, and the Commonwealth should negotiate their similar adoption by State, Territory and local Governments. As soon as practicable they should be given the force of law, and their implementation should be monitored by an independent body such as the Auditor-General and by ATSIC on behalf of Aboriginal and Torres Strait Islander peoples.

1.27 The adoption of these principles is intended to:

a. provide a starting point for Government action to commence before the end of 1995 with a view to achieving social justice by the year 2001; and

b. provide the basis for continued evolution and development of relationships between the Commonwealth Government and Aboriginal and Torres Strait Islander peoples, particularly at the local community and regional levels.

1.28 The development of these new relationships will help forge greater cohesion amongst Aboriginal and Torres Strait Islander peoples and organisations at the local, regional and national level. ATSIC will seek to facilitate this development.

Principles for Indigenous Social Justice and the Development of Relations Between the Commonwealth Government and Aboriginal and Torres Strait Islander Peoples

1. The relationship between the Commonwealth Government and the Aboriginal and Torres Strait Islander peoples of Australia is founded in full acceptance and recognition of the fundamental rights of Aboriginal and Torres Strait Islander peoples to:

a. recognition of indigenous peoples as the original owners of this land, and of the particular rights that are associated with that status;

b. the enjoyment of, and protection for, the unique, rich and diverse indigenous cultures;

c. self-determination to decide within the broad context of Australian society the priorities and the directions of their own lives, and to freely determine their own affairs;

d. social justice and full equality of treatment, free from racism; and

e. exercise and enjoy the full benefits and protection of international covenants.
2. In the formulation of policies and delivery of programs that affect Aboriginal and Torres Strait Islander peoples, the Commonwealth, pursuant to powers in relation to indigenous peoples overwhelmingly granted it by the people of Australia in the 1967 Referendum:

a. shall ensure that policies, the delivery of programs and services, and the effective improvement of service quality is achieved through processes which are negotiated with and which protect the rights of indigenous peoples;

b. recognises the diversity of the Aboriginal and Torres Strait Islander peoples,

c. accepts the importance of empowerment for decision making and planning at the community and regional levels, and the need for Government at all levels to cooperate and negotiate with Aboriginal and Torres Strait Islander communities and organisations;

d. requires that indigenous peoples have full access to, and equitable outcomes from participation in, all relevant mainstream programs,

e. shall ensure processes of accountability to Aboriginal and Torres Strait Islander peoples and especially shall ensure their involvement in review and evaluation processes;

f. requires that collaboration and coordination between Government agencies providing services to Aboriginal and Torres Strait Islander people shall be significantly improved;

g. shall establish a genuine and productive partnership with indigenous peoples through representative bodies at local, regional, State and national levels;

h. shall provide quantifiable data and other forms of information on the objectives and outcomes achieved, for all programs which impact on Aboriginal and Torres Strait Islander well-being; and

i. shall ensure that the interests of indigenous peoples transcend existing conventions about the division and compartmentalisation of the functions of the various spheres of Government.

3. The Commonwealth shall ensure that these principles are also adopted by State, Territory and local Governments throughout Australia, if necessary by Commonwealth legislation applying to all Governments.

4. These Principles shall be observed by all Commonwealth departments and agencies as governing all aspects of their relationships with indigenous peoples. Departmental secretaries and agency heads will be directly responsible for the implementation of the Principles, and for reporting annually on progress.

ABORIGINAL SEX OFFENDER TREATMENT PROGRAM
GREENOUGH REGIONAL PRISON

Julianne Davies
Sex Offender Treatment Unit, Greenough Regional Prison, WA

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Background of Sex Offender Treatment Program

The Ministry of Justice Sex Offender Treatment Unit (SOTU) commenced as a prison based service in 1987. Initially, the sex offender treatment program was modelled on institution based programs in Canada and the USA that approached treatment from a cognitive behavioural stance that incorporated relapse prevention training. Since that time SOTU has been responsible for the delivery of all of the Ministry’s sex offender treatment programs and has expanded to include both prison and community based programs with a statewide focus. The SOTU staff consists of professionals, both Aboriginal and Non-Aboriginal, drawn largely from those with a psychological or social work background. SOTU offers a range of programs to suit the identified needs of the offenders. The programs include an Intensive program for men who pose the greatest risk of reoffending, a Pre-Release program for those that present as a low-moderate risk of reoffence, a Community Based Program for those sex offenders who have a community based order or deemed to be a low risk for reoffence and a Pre Release culturally sensitive program for Aboriginal sex offenders. SOTU also offer a Maintenance Program for offenders who have completed one of the prison based programs, but who are still considered to represent some risk of reoffending. Offenders who are intellectually disabled are offered a program with the content modified to ensure comprehension and includes information on sex education and appropriate boundaries. This paper briefly documents the evolution of the Aboriginal sex offender program and draws attention to some of the strengths and limitations of the current program as facilitated from Greenough Regional Prison. Subjective appraisals of group processes as experienced by a European female therapist (author) are also briefly discussed. Given the paucity of literature in the area of Australian Aboriginal sex offenders it is deemed important to document the experiences of facilitators and participants in the pursuit of best practice models of treatment.

Evolution of the Aboriginal Sex Offender Treatment Program

Over time it became apparent to therapists assessing risk and appropriate intervention treatment for sex offenders was what Cull (1996) has termed “cultural collision” between staff of the SOTU who, more frequently than not, were non Aboriginal and female and offenders who were Aboriginal. The “collision” was identified as impeding the assessment process and thus program participation from being appropriately and adequately implemented (the consequences of which, became apparent when untreated Aboriginal sex offenders were reviewed for parole suitability influenced heavily by whether the offender had satisfactorily addressed the issues relevant to his offending behaviour). This inequity, and justly so, was viewed by SOTU staff and offenders alike as an untenable situation, not only in terms of accessibility to programs but also in light of re-conviction rates for Aboriginal sex offenders.

A review of Aboriginal sex offenders was undertaken by the Ministry of Justice in 1992, (Crake, 1993). Crake surveyed 110 incarcerated Aboriginal sex offenders from many geographical locations that included the South West and Kimberley regions. Although meaningful interpretation of the data was affected by offence reporting variables and the usual limitations that accompany social surveys, the results suggested a pattern of offending against Aboriginal women and children within Aboriginal communities. Crake’s survey was the first survey undertaken by the Ministry that depicted a general profile of incarcerated Aboriginal sex offenders. It was found that Aboriginal sex offenders were likely to be young males between 15-25 years (48%), to have a criminal record (97%), to have had a previous conviction for assault (72%), a previous conviction for a sex offence (39%) and to have been previously incarcerated to a term of imprisonment greater than 12 months (28%). A study
examining recidivism rates for sex offenders in the Western Australian prison population, that used failure rate analysis for empirical support, suggested that re-incarceration rates for sexual offences, for Australian non-Aboriginal offenders was 34% whilst re-incarceration rates for sexual or violent offences committed by Aboriginal offenders was 79% (Broadhurst and Maller, 1992).

It became apparent to SOTU team members and Ministry administrators that a flexible program needed to be developed that could provide both treatment for Aboriginal sex offenders and be presented in a manner that was culturally appropriate. This realisation was in keeping with the Ministry’s commitment to develop programs that met the needs of Aboriginal offenders within a culturally appropriate context. However, to mainstream Westernised service providers the understanding and meaning of “cultural appropriateness” in relation to Australian indigenous offenders was a criterion, due to the very nature of ever changing dynamics of any culture, most program deliverers found difficult to define let alone articulate and implement.

In response to recommendations from Royal Commission Into Aboriginal Deaths in Custody (RCIADIC) 1991, and in accordance with the Ministry’s commitment to address the issues of cultural appropriateness, a Special Needs Team from SOTU initiated a research project with Aboriginal sexual and violent offenders. The purpose of which was to ascertain and operationalise a culturally appropriate delivery of programs (Crake, Yavu-Kama-Harathunian, McGuire, Collard and Mallard, 1993, Yavu-Kama-Harathunian, 1994). The findings of the qualitative research highlighted a set of criteria that were highly valued by Aboriginal offenders and as a consequence, were developed to become the basic foundation for the development of culturally sensitive programs. The following are the key criteria identified from that collaborative research between offenders and service deliverers:

- how the presenter acknowledged the individual - Aboriginal or offender
- whether the presenter could show an understanding of Aboriginal culture or was an Aboriginal person
- whether there was respect given to them
- whether their participation was valued
- whether there was time given for them to discuss their issues, before, during or after a session.

It appeared that it was not so much the content of program delivery that would largely impact on the success of treatment but more the process of delivery that incorporated cultural meaning and understanding together with an understanding of dialogue between facilitators and participants. In addition, the collaborative efforts of the research team were able to identify cross-cultural issues that could impede program progress. The issues identified were gender issues and other gender taboos, age and maturity issues (Yavu-Kama-Harathunian, 1994). Thus it appeared the essential criteria for engaging Aboriginal sex offenders in group work largely hinged on the non-Aboriginal therapists’ patience, humility, some cultural awareness and a willingness to learn more.

A working party consisting of four sex offender treatment providers and two professional Aboriginal people consulted with Aboriginal staff in other government agencies and with Aboriginal community workers in metropolitan and country districts. The aim of the working party was to address a range of questions and to clarify or dispel ideas and or myths that
argued against providing treatment for Aboriginal sex offenders. The findings were consistent with the findings of Yavu-Kama-Harathunian (1993) that support and encouragement of the wider Aboriginal community to proceed with assessment and treatment procedures was sanctioned by community members and offenders (Cull, 1996).

Research continues in the pursuit of program development and reducing recidivism rates of Aboriginal sex offenders. A study of the predictors of recidivism among Aboriginal sex offenders (Forster, 1997) who had completed the pre-release sex offender treatment program found that age at first sexual offence was a significant predictor variable. Recidivist offenders were significantly younger at first sexual offence than non-recidivist offenders. Interestingly, the study found that intoxication at the time of offence, and offence origins in domestic violence did not support theoretical perspectives of aboriginal offending. The results also supported the findings of other aboriginal authors who have identified the "massive extent of sexual violence within the aboriginal communities" and that the majority of sexual offences are committed against same race or "black on black". Forster suggests that these findings may indicate that sex offences occur as a result of a different set of factors and circumstances than appear significant among non-indigenous offenders. Forster's 1997 findings also suggested that Aboriginal offenders who offended against a non-aboriginal victim were also more likely to reoffend.

Table 1.

<table>
<thead>
<tr>
<th>Program ID</th>
<th>Participants</th>
<th>New Sex offence</th>
<th>New Violence</th>
<th>Non Sex Non Violence</th>
<th>Percent Recidivism</th>
<th>Mean time released in months</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intensive 1997</td>
<td>57</td>
<td>8</td>
<td>2</td>
<td>8</td>
<td>31</td>
<td>44</td>
</tr>
<tr>
<td>Pre-Release 1997</td>
<td>82</td>
<td>1</td>
<td>7</td>
<td>2</td>
<td>13</td>
<td>33</td>
</tr>
<tr>
<td>Greenough Pre Release 1997</td>
<td>45</td>
<td>5</td>
<td>5</td>
<td>7</td>
<td>38</td>
<td>16</td>
</tr>
</tbody>
</table>

NB. Recidivism has been defined as meeting one of three criteria, new sex offence, new violent offence and return to prison for a breach of parole.

Greenough Aboriginal Pre Release Sex Offenders Program

In 1994 the Sex Offender Treatment Unit in Western Australia piloted a Pre-Release Sex Offender treatment program exclusively for Aboriginal Offenders. After two years an evaluation of group process issues were documented and appraised by the Sex Offender Treatment Unit. The findings of that evaluation suggested that the developing program was being received by Aboriginal offenders in a positive light (Shires, 1996).

Since 1994 Pre Release programs have been facilitated at Greenough Regional Prison some 400 kilometres north of Perth. Ongoing program evaluation, both statistical and anecdotal, indicates that the program continues to be well received by both Aboriginal offenders and prison management. Prior to implementing the program recidivism rate for untreated
Aboriginal sex offenders was calculated to be 80%. Current statistical data indicate the recidivism rate for Aboriginal sex offenders who have participated in the treatment program to be 38%. The above quoted recidivism rates are reoffending rates for breach of parole, acquiring a new sex offence or new violent offences. Although viewed cautiously the reduced recidivism rates and the willingness of male Aboriginal sex offenders to participate in group therapy suggests that the move to develop a culturally appropriate program was a move in the correct direction to address the needs of incarcerated Indigenous sex offenders.

Structure of Aboriginal Pre Release Sex Offender Treatment Program

Aims and Objectives

The objectives of the Sex Offender Treatment Unit are:

• To provide treatment programs for convicted sex offenders.
• To provide expert advice to sentencing and releasing authorities and the Ministry on management and treatment of sex offenders.

The basic premise on which all programs (including the Aboriginal Sex Offender program) operate is as follows:

• The primary client is the community.
• The service philosophy is victim oriented and focuses on reducing the likelihood of future victimisation.
• Resources are limited so services are based upon a risk and needs assessment.
• Services will be delivered within a framework of ethical, professional standards.
• A continuum of service will be provided based upon an integration of prison and community services.

Program Composition and Structure

Until very recently the pre-release sex offender treatment program was a 130-hour program which ran over approximately 13 weeks. However, after an evaluation conducted in 1999, it was decided by members of the Sex Offender Team that the program needed to be extended due to some inherent difficulties with group process based on both offender and facilitator needs. Future programs will be run over approximately 16-17 weeks and will allow facilitators to attend to more of the individual needs of participants. The program is conducted over 2 days per week for five hours per day. The sessions are similar in content to those offered to non-Aboriginal offenders and include 11 discrete components that are primarily educational and skills training modules. The modules covered include,

• colonisation and being part of the Aboriginal community,
• sex and consent,
• intimacy and sexuality,
• taking responsibility,
• distorted thinking,
- expressing and managing emotions,
- victim empathy,
- grief,
- substance abuse,
- life cycle and offence cycle,
- relapse prevention planning.

However, relapse prevention, expressing and managing emotions, victim empathy and relationships and sexuality are the dominant themes and are continually interwoven throughout the treatment process. Thus the sessions have been designed to optimise facilitator flexibility, responsivity and avoid a rigid or overly structured format.

**Resources**

The program is presented in a group situation and usually consists of 10 participants. The program is facilitated from the prison in as safe an environment as the constraints of custodial institutions allow. A separate program room has been built exclusively for the delivery of culturally appropriate programs. The room is large enough to allow different forms of therapy including drama and art therapy. The room is equipped with a CD and tape player, exercise mats, visual aids such as television, video and overhead slide/ transparencies projection facilities, fixed and portable white boards. In addition tea and coffee making facilities have been provided. Desks are also available for group written work when the need arises and each participant is offered the option of using a hand held tape recorder should they experience difficulty with literacy skills. Using drawings, artwork, music and drama also encourages expression of emotion and thoughts.

**Approach to Therapy**

The process of delivery of the Aboriginal Sex Offender Pre Release program incorporates an understanding and recognition that the Aboriginal concept of health is holistic. Most, if not all, Aboriginal people have been affected by 200 years of cultural upheaval. The experiences of trauma and loss contribute to the impairment of not only Aboriginal culture but also to the Aboriginal mental health and well being. Thus, an Aboriginal sex offender does not only come to treatment with his own issues but those of his family members too. In addition, the majority of Aboriginal offenders come from a personal or family history in which white “professionals” have been insensitive to Aboriginal cultural issues which has served to perpetuate oppression. It is understandable that the impulse to resist intervention is evident in some Aboriginal offenders. Some of the guidelines that help the facilitation of a holistic approach includes the recognition of human rights of Aboriginal people and that their rights must be recognised; that racism, stigma and social disadvantages be acknowledged; that the strength and centrality of Aboriginal family and kinship be accepted. These guidelines adopted by the Ministry of Justice Sex Offender Team reflect the view and ethical guidelines suggested by the Australian Psychological Society.
Group Therapy Benefits

The benefits of group therapy for offenders include creating an environment whereby clients feel less alone. This is thought to be of immense value in that offenders, due to the very nature of their custodial environment, often have to deny or minimise the nature of their offence for personal safety issues. It is not unusual to find that offenders share a cell with another without ever having disclosed what it is they have been jailed for. Given the wide and diverse structure of Aboriginal families and kinship it is more often the case that other family members are also incarcerated in the same jail. This can become problematic when family members of the victim are likewise serving a custodial term within the same prison. Mere survival and the fear of retribution (payback) dictates that offenders keep a low profile and deny justify and minimise the extent and severity of their offences. Thus it is not unusual that group therapy becomes the first time and place that offenders have been able to verbally acknowledge the impact of the offence for both victim and offender in an environment that acknowledges the men as being more than a stigmatised “sex offender”. In a group situation offenders learn that their problems are not unique. They learn to speak out and become more assertive with both the facilitator and other group members. They also come to realise that they can no longer justify their offending behaviour with spurious excuses because others have already tried that approach and are alert to the distortions of truth. For some, it is the first time they have had the opportunity to express their grief, rage and sense of unjustness to a white person without the risk of incurring punitive action. The group process allows Aboriginal men an opportunity to recognise that they are valuable individuals. Having said that, the SOTU does not make the claim that a 13 week pre release sex offender treatment program can address and bring about the healing of a fractured Aboriginal society. As such the Sex Offender Team recognises it’s limitations.

As the group becomes more cohesive and unified in their collective objectives, therapeutic benefits are recognised by both the offenders and the facilitators. Within a few weeks offenders begin to bolster each other’s confidence and self-acceptance. As trust develops between group members they learn to value one another and develop a keen sensitivity to others’ needs, motives and messages. As group cohesion increases and a trusting relationship with the therapists emerges (usually around week 3) therapists can assist the offenders to change the way they think in relation to their offences. For those familiar with group work and the dynamics involved, facilitation of the sex offender treatment program is both challenging and rewarding. To the inexperienced (those who have not worked with this particular group make up) group process is not easily identifiable within an European/Western framework. However, when an alternative perspective is taken it becomes clear that the benefits and self-growth usually identified in non-Aboriginal groups are certainly in evidence. It appears the success of the program largely hinges in the process and holistic approach that has evolved with the help of both Aboriginal consultants and offenders.

Challenges for Therapists

Notwithstanding the above, group work with a diverse group composition, ie offenders from all over the state of Western Australia, intra and extra familial conflict, dialogue difficulties and many participants seeking treatment for the enhancement of parole opportunities, presents as a challenge to the most experienced of group therapists. These demands include sensitivity, authenticity, a willingness to listen to the offender’s world view and a collaborative approach in coming to an understanding of different cultural beliefs, values and historical perspective’s that undoubtedly contribute to some of the anti social and sexually deviant behaviours. The
experience demands of group therapists a high level of motivation and energy, a sense of humour as therapists weaknesses are exposed, a willingness to recognise therapist limitations, a flexible approach to therapy, and time to reflect upon the messages that offenders offer to the development of culturally specific programs. Equally important to the success of the program process is the therapist’s own well being and continued development. Collegial and professional supervision is viewed as essential to minimise the possibility of vicarious traumatisation and to ensure that counter transference issues are used to benefit the group process. Thus whilst program facilitation is primarily the responsibility of the therapists, the success of the program also hinges on a “team work” approach in the sharing of knowledge and professional expertise. A structured debriefing process for service providers involved in the area of sex offender treatment work is deemed essential.

Therapist’s Role

Consistent with some of the “best practice model” literature, and perhaps ideally, sex offender programs are thought to be best provided by male and female co-leadership. In the earlier years of the program the SOTU were fortunate to secure the services of a male Aboriginal therapist who proved to be a valuable role model. However, due to the difficulties of securing the services of a suitably qualified and willing Aboriginal therapist, it has been necessary to provide treatment facilitated by European women to ensure program continuity. This decision was not made lightly and came about after consultation with major stakeholders, community leaders, offenders and an appraisal of previous group process (Shires, 1996, Cull, 1996, Yavu-Kama-Harathunian, McGuire, Collard and Mallard, 1993, Yavu-Kama-Harathunian, 1993).

The therapist’s role is to assist the offender replace undesirable thoughts and behaviours with alternative ones. The primary aim of the therapists is to assist offenders to identify thinking patterns that are likely to condone offending, bring about change in thinking and behaviour in particular situations and to encourage better self-management. Many offenders come to group therapy with cognitive distortions that they have used to minimise and justify their offending behaviour. In addition to the cognitive restructuring of beliefs and behaviours therapists are also required to assist the offender gain insight into the processes of psychological defence mechanisms and how they operate to protect the defend themselves. Many do not perceive non-consensual sex as violent even in the light of medical evidence that suggests violence formed part of the assault. Often it is the case that Aboriginal men have been sensitised to the level and frequency of violence within their own communities. It is often difficult for them to recognise the violation of basic human rights. The Sex Offender Treatment Unit, supports the concept of the Human Rights Convention that protects women and supports the notion that rape, child molestation and violence are universal to women and children and not just the experience of Aboriginal women (Bell, 1991).
Part Two Group Process

Most of the programs aimed at rehabilitation within the Ministry have a cognitive behavioural approach and include skills training in relapse prevention strategies in a group situation with the aim of reducing recidivism. Group process is perhaps easier to recognise in groups, which are drawn from the general population and are facilitated within a community setting. A fair assumption would be that individuals coming together in community groups have a different profile than that of the incarcerated and repeat offender who by the very nature of their incarcerated status, have differing needs and issues than do community members.

Therapists familiar with group work will recognise that group process is as important, if not more so, than program content. Certainly neither can work independently of each other if therapeutic benefits are to be realised. Both content and process (group dynamics) must be evaluated to ascertain and direct positive behaviour change. However, identifying and monitoring group process and individual change can be difficult, especially if the observer is a white female and is evaluating an all-Aboriginal male therapy group. Often the cohesion of the group and the progress of individual change, to the uninitiated, can present as subtle and unremarkable. Under the constraints of limited resources and structured time frames, a perceived stagnant or immovable group can lead to therapist despondency. The following section is segmented into 5 sequential stages of group development. The aim of the following section is to share the knowledge I have gained whilst working as a group therapist with Aboriginal sex offenders.

The Stages of Group Development

Group Forming

Whilst all members of the group are of Aboriginal descent they by no means form a homogenous group. The individual difference in age, cultural upbringing, and differences in personality styles influences the communication process. Group composition is usually as diverse as is the nature of the sex offences. The age range falls between 19 years and 70 and the participants come from all over the state. It is not unusual to have a young unmarried man of about 20 years in the same group as a 45 year old married man with a diverse range of life experiences which can present as a barrier to communication.

There are many different cultural norms and rules depending upon the area of origin of the offender which influence the communication process. In addition, the diversity of Aboriginal sub-cultures and differing beliefs are further complicated by different levels of education, life skills attainment, life experience, cognitive impairment for some (due to substance abuse), psychological and functioning problems, adversarial relationships with prison authorities, a perceived threat for having entered treatment that has a psychological therapeutic basis, and for most, myths and distorted realities of what takes place in a Sex Offender Treatment Program. A further compounding factor for some is program participation motivated by a chance to enhance parole options that by the very nature of the program “Pre Release” is becoming imminent. It is especially frustrating for offenders, due to program availability and suitability, to be facing a program that may conclude after their parole eligibility date.
As with any group, the formation of the group is the basis upon which group norms and rules are built. Confidentiality is an issue that is raised and clarified in the early stages of group formation. Confidentiality is depicted as a two way process, that is, client / therapist confidentiality and group confidentiality. As trust is built and conflicts are resolved a greater degree of responsibility is taken by the participants for their individual change and self-awareness.

Confidentiality issues are explored and each member is asked to voice any concerns that may impede their progress. It is not unusual to find that an offender shares a cell with another who does not know the nature of the offence of the group participant. Fears and anxieties are discussed pertaining to offence identification due to inmates’ knowledge that lengthy program participation is indicative of either a domestic violence or a sex offender program.

A great deal of importance is afforded to this stage of group formation. Usually most offenders are at first reluctant to be in a group situation and there is usually exists a great deal of apprehension and distrust. The overall characteristic of the beginning of group formation is silence and watchfulness. For many offenders the concept of a prison based program sets up an adversarial relationship with program providers. The status afforded incarcerated sex offenders is low, emanating not only from prison officers but inmates also. It is difficult for sex offenders to view any program facilitator as an agent for an individual’s self-growth and ultimate behaviour change. Initially, many offenders view the program as punitive. Trust between group members and the facilitator is of paramount importance. In terms of therapeutic benefit trust is undoubtedly the most significant aspect of both group and individual self-awareness. For many, trust has been affected by their experiences with white man in the area of police and law enforcement, experiences with teachers and childhood experiences of missionary life. As such it is not unusual for group members to test the area and boundaries of trust. This is observed by derogatory remarks made about white or European culture and concepts. Some will disclose issues that might cause punitive actions such as the disclosure of substance use within the prison environment.

The formation stage is used to address an individual’s fear and apprehension. Issues that often arise relate to academic and professional status of the therapists. Offenders also make enquires about the success of previous programs and recidivism rates and will often ask how they will identify their own progress. This is viewed as a positive indication that some are, even in the early stages, accepting some degree of responsibility for change. Facilitators are often asked questions for which they do not have an immediate answer to. Acknowledging that they don’t have the necessary details to provide an adequate answer can enhance the relationship. If the question is of importance to the individual the facilitator can endeavour to seek out the relevant answer for the next session. This approach appears to foster a sense of genuine concern for each individual and demonstrates that facilitators are willing to help.

It is extremely important that offenders own the program and are made to feel free to contribute in any area that may enhance the program. Each group undoubtedly brings its own set of dynamics and depending upon group composition certain areas need a greater focus. For example, many offenders have limited literacy skills, which can cause a great deal of anxiety, especially since pre release relapse prevention programs require the participant to complete homework. Audiocassette recorders are made available for those who experience literacy difficulties. Communication can be enhanced by allowing participants to use swear words, parochial and colloquial terminology and by allowing a sense of humour to surface.
An additional area of discussion inevitably arises from the fact that female facilitators are providing the program. For some, this may be an area of discomfort for a myriad of reasons, the foremost being shame and embarrassment for having committed a sexual offence. Care must be taken to ensure that cohesiveness increases as opposed to polarisation developing between facilitators and group members. It is important that the facilitator and the group members aim to achieve an understanding of both the position and frame of reference of each other and that conflict is not personalised. This is viewed as an important facilitator role and often serves to enlighten males to a feminised perspective. Very rarely is it the case that an offender will disengage from the dialogue when women’s issues and perspective’s are verbalised.

There appears to be a void in the knowledge men have about women’s issues and perspective’s. This is not surprising given that many have limited schooling. Compounding this is an Aboriginal tradition of segregated gender roles or business. It has been observed that generally older men are more likely to avoid eye contact with the female therapist whilst the younger more urbanised men will remain focussed and appear more interested in the information being conveyed. Thus it is helpful if facilitators demonstrate sensitivity to the differences in the customs and norms of the older more traditional Aboriginal man and not view averted eye contact as lack of interest.

The majority of offenders indicate that they would prefer to disclose personal and embarrassing information to females. This may be, in part, due to the traditional roles held by Aboriginal women who have been responsible for family well being. Offenders have often conveyed to white female presenters their reluctance to discuss intimate details with Aboriginal women due to the fear of gossip. Again this may be due to traditional ways of dealing with relationships. Feminist and anthropological writers for Aboriginal women’s issues suggests that traditionally, Aboriginal women have used strong and subtle methods such as gossip and playing one off against the other to retain power and social structure (Hamilton, 1981).

Finally, it is of paramount importance to the overall success of the program to discuss the concept of cognitive behavioural changes. Facilitators have found it useful to use many different analogies, presented in clear and unambiguous language, to introduce the concept of behaviour change. In addition the issue of challenging is discussed in great detail, for much of the program is based around challenging cognitive distortions and irrational beliefs. Many offenders come to group with distorted cultural beliefs that have arisen from the disintegration of Aboriginal traditional customs. Differing levels of knowledge about customary law and the perception of Aboriginal social systems is reflected in their distortions about the law. Often these distortions are used to justify their sex offending. It is imperative that offenders are aware that challenging is about exploring different ideas and beliefs as opposed to personal attacks.

Finally, the forming stage is used to set up group rules and boundaries. Each group is afforded the opportunity to set their own rules regarding issues such as tea breaks, language, swearing, seating arrangements, bathroom breaks and whether they are prepared to go over time if need be. This serves the purpose of reinforcing that each individual is responsible for the outcome of the program and that the group members own the program.
Group Storming

The next stage of group formation is referred to as storming. The essential characteristics of the storming stage are identified by group members competing with one another for air space, displaying disruptive and anti-social behaviours and feigning disinterest. Often, controversy and conflict are ignored, denied, or suppressed. Whilst this stage may not be overtly evident to the facilitator it is almost certain that competition and conflict are happening. Storming is not exclusive to offenders for there is evidence to suggest that therapists are also included in the process. There is the potential for problems to arise if an older group member, with an extensive criminal history of anti-social behaviours, who has scant regard for “white man’s law” and has experienced racial discrimination, is directly confronted by therapists. He will often attempt to use these issues to challenge the facilitator. It is of paramount importance that the therapist does not personalise the comments. It is more useful to turn the conversation or comments around to present a constructive understanding of the cultural differences that do exist. This can be accomplished by asking the group member to identify his values and whether his behaviours are in accordance with what he holds to value in his culture.

It is not unusual for some offenders to attempt to align themselves with the therapists. This can be seen in courtesies that would not otherwise be seen within a prison environment, such as holding open doors for therapists, seeking favours such as asking for telephone access, making enquiries about parole likelihood, inquiring about personal details of therapists. It is also the time when offenders challenge facilitators about their knowledge of “Aboriginal ways.” Facilitators do not view this stage as disruptive to group process and growth. More so, it is viewed as an indication that therapists are expected to be part of the group.

It has been found that the storming process is an appropriate stage for offenders to disclose to others in the group the nature of their offence. Whilst discomfort is experienced by most, and is especially evident in those who have committed incest or sexual assaults perpetrated against children, the disclosure of offences serves to test the level of conflict and competition within the group. Often it is the case that family members are in the same group, ie uncles, cousins and brother-in-laws. During this stage it is important that facilitators recognise the possibility of relationship ties and enforce the idea that all sex offenders are equal in terms of exploitation and abuse of other individuals. Facilitators are required to remain sensitive to inequities in “air space” and facilitate openings for all to express their thoughts and feelings. Due to communication difficulties experienced by some offenders, the facilitator is often challenged with understanding the offender’s frame of reference and is called upon to interpret the feelings and thoughts that the individual conveys. Therapists need to have an awareness that analysis of the discourse is subjective and relies on the individual’s interpretation. It is not unusual that the facilitator will mis-interpret a statement and thus must be able to demonstrate to the group an admittance of misunderstanding.

Self-disclosure is encouraged according to the stage of group development. Thus it is usually week three that offenders first begin to disclose the nature of their offence. There is a tendency for some offenders to label themselves as a “sex offender” which limits their full potential for change. It is important that the individual is not being viewed as the offence but rather as an individual who has committed the offence against another individual.
It is not unusual to find those that are either isolated or conversely overly seeking attention have some form of psychological functioning problem related to their experiences with life that makes it difficult for the offender to engage in group work. These type of problems are usually quite distinct. They will manifest in group interactions and will be consistently identified by both therapist and other group members as such, as opposed to resistance or non co-operation.

Sometimes members will sub group. This is especially noticeable in members who have shared experiences or are still in denial. This is evidenced by the degree of victim blaming and debasing or viewing themselves as victims. Whilst this is a direct impediment to cognitive restructuring it is prudent for facilitators to examine the basis of their assertions. It may be that their life experiences, such as child physical, sexual and psychological abuse and neglect, domestic violence, deaths in custody, suicide, juvenile offending patterns, homicide and poor health have contributed to their victim stance. Often it is the case that these issues have not been disclosed previously by the offender at treatment assessment interviews.

**Group Norming**

The storming stage is followed by what is referred to as the norming stage and is characterised by group cohesion. This stage becomes evident after group participants have had time to reflect on the purpose of the program, the expectations of therapists and group members and have become familiar with each other and the nature of the offences committed. During this stage offenders become engaged in the process by communicating their knowledge and experiences and by making fewer references to bi cultural norms and rules. It is at this stage that most offenders begin to disclose their own personal experiences and pain relating to living in a bi-cultural and ever changing society. Given that this stage occurs relatively early in the program it is perhaps prudent that facilitators acknowledge the offender’s collective experiences and their historical past. It is imperative that facilitators validate each offender’s experiences.

Many offenders display behaviours that are consistent with “institutionalisation” and as such methods of responding include behaviour indicative of fear of ostracism and low levels of self esteem. Thus with the emergence of challenging and risk taking and increased communication, the facilitator is able to recognise group cohesion. Other indicators of group cohesion can be found in willingness to be punctual, level of disclosure about prison issues, increased politeness and respect and increased adherence to group norms and rules. Another indicator that suggests group cohesion is the emergence of requests for individual consultation. A number of group members will seek individual consultations with the therapist to discuss concerns held by the offender regarding other participants perceived blockages to that individual’s progress. Rather than addressing these issues directly, it is often the case that a group member will feel more comfortable discussing his observations with the facilitator first before the issue is raised in group. Whilst this is not discouraged, it is important that facilitators do not set up conflict within the group. It would be detrimental to the group process if members thought that others were speaking “out of turn” about each other.

Whilst successful behaviour change largely hinges on challenging distorted beliefs it is important that facilitators do not impede group cohesion by introducing the challenging too soon. It is deemed more beneficial for the group members to learn and identify with each other at this stage. The shared information appears to provide a basis or foundation upon
which participants begin to identify with one another. Having said that, the therapist may run the risk of becoming a target for abuse for past governmental policies, law enforcement policies and racist and sexist remarks. It is important that therapists do not personalise the content of what is being portrayed. More often than not, it is during this stage that a great deal of insight can be gathered by facilitators that may be directly linked to predisposing and precipitating factors that lead to the sexual offences.

It is also helpful for the facilitator to be aware of what the needs and values are of the individual and what his expectations from the program are. Again this is a difficult area and may engender a perceived conflict between therapist and offender. However, cultural differences are not the only inhibitors to the building of a trusting relationship between therapist and offender. Other problems can arise that have their roots in psychological functioning such as cognitive distortion, self-deception, rigidity and resistance to change.

As distorted beliefs are challenged and examined the possibility arises that the individual will experience loss of face, well being and legitimacy which affects a sense of themselves. Thus the facilitator must be aware of the potential losses and demonstrate empathic responses. An added bonus to the dynamics of the group is that conflict can generate an increased level of motivation and energy for observers. However, it is important that group members do not view the process as an imbalance in power and that the conflict and resolution was an exercise in assertive communication and learning.

It is also important that therapists do not allow this stage to become a vehicle for minimising and justifying the offending behaviours of participants which more often than not have been perpetrated against their own race. Often an offender will make spurious appeals to customary law or tradition, especially in relation to age of consent or ownership of women. Thus it is useful for therapists to have some prior exposure or access to feminist and anthropological literature that documents some of the traditional customs and roles pertaining to the issues of power, social structure and gender roles in Aboriginal communities. These areas are revisited over and over during the course of the program. This early information can be used later to identify an offender’s progress in accepting responsibility for his offending behaviour and evaluate the presence or absence of cultural cognitive distortion. To ensure group maintenance, facilitators are required to constantly verbalise the processes as they occur and draw attention to the risks the individual has taken. Recognition of advances made serves as reinforcement for self-awareness and exploration. It also serves to stabilise and integrate the relationship between the facilitator and group member.

**Group Performing**

Whilst not necessarily more important than individual change, emphasis is placed on understanding and gaining insight into the precursive or predisposing factors that lead to the offences. It has been found that homework, either written or taped, offers little to many of the offenders that have limited literacy skills. Lack of privacy within the prison system also inhibits homework completion. As such, facilitators rely heavily on the verbalised content of the program. The majority of information about an offender comes from the lifecycle and offence cycle modules. To the inexperienced the performing stage is the most difficult to discern and is the stage that is most challenging for therapists working with Aboriginal sex offenders. This is due to group participants’ poor communication skills, cognitive impairment due to substance abuse, the re-emergence of fears of exposure of personal and relationship inadequacies, the protection of manhood, self-esteem and fears pertaining to being a focal point. Certainly, at this stage group expectations are that individuals will be taking risks and
breaking through previous barriers and boundaries. The very nature of behaviour change brought about by challenging distorted beliefs requires input from both therapists and group members. However it is not unusual to find that group members are extremely uncomfortable with the idea of challenging their countrymen. For example participants have often conveyed that “you don’t get involved in another man’s business”. Part of this may be due to the fact that offenders are aware that the therapist has to evaluate the individual’s level of risk to the community for the parole board and they may be protecting each other. That the offender knows this from the outset provides the basis for the emergence of an adversarial relationship. Often an offender will give away as few indicators of risk as possible whilst the motive of the therapist / assessor is to elicit accurate information about risk factors. Therapists can facilitate progress in this area by reinforcing that responsibility for self-growth and understanding lies with each individual and as a collaborative process. That is, that each group member is an active participant himself and that active participation requires that they have a voice in setting standards and rules for the survival of their own culture. The facilitators are repeatedly called upon to ensure group maintenance and to monitor and encourage offenders to share their knowledge. It is useful for facilitators to monitor each other for potential transgression to adversarial courtroom like procedures and remain authentic, empathic and respectful in challenging.

**Group Adjourning**

The program concludes after each member has worked on each module and has completed his life cycle, offence cycle and relapse prevention plan. As with the formation of the group, disengagement is as equally important. At this stage the program has progressed to the stage that therapists and group members are able to recognise the achievement of each other. A consistent finding after evaluation and feedback from participants is that the preceding weeks of lifecycle and offence cycle have been extremely taxing. Towards program completion it is not unusual for offenders to begin focussing on their impending parole hearings. Certainly relapse prevention planning brings about an awareness of having to set goals for when they are released to the community. It is also a time when group members are seeking feedback on how they have progressed and what their risk may be for reoffending. There is a risk that program participants will view completion as a time to “close the door” and leave the offence and it’s consequences in the sanctity of the program room. It is imperative that the offenders are reinforced with the notion that treatment does not end at the conclusion of the program and that maintenance and self awareness is ongoing and will require the offender to remain always vigilant for high risk factors that place them at risk of reoffending.

Disengagement procedures include each offender identifying areas of positive self-efficacy that they have. Group members are also invited to contribute to the building of a profile for each other. Both group members and the individual identify strengths and weaknesses of their relapse prevention plan. Facilitators view this as being an important aspect to the program completion. Many offenders have taken risks and exposed their most intimate thoughts, feelings and beliefs. Their contributions are recognised as leaving them in a vulnerable state and many express a feeling of being overwhelmed by what they perceive to be external challenges they must face when released. It is deemed important to highlight each individual’s strengths and to ensure they recognise that they have the ability and skills to implement changes in their lifestyles.

Offenders are advised that they will have an individual follow up consultation to discuss their progress and to discuss their risk assessment. This allows offenders to view their completion reports and to address any business arising from the content or risk assessment.
The program concludes by sharing a meal or picnic with the therapists and sometimes with a senior prison officer or prison administrator. These occasions have always been enjoyable. Whilst program completion signifies the closing of formal group work it is often the case that individuals will seek out an individual consultation about 2 or 3 weeks after the program. Many will disclose that they miss the cohesiveness and dynamics of being in treatment and experience a sense of loss.

After Effects

*Vicarious Traumatisation*

Undoubtedly, the very nature of the offences committed by sex offenders will have a significant impact on therapists. Offenders’ disclosure of the nature, frequency and degree of the violence committed by them and also perpetrated upon them can leave the therapist with a sense of becoming overwhelmingly swamped with the horrific details. Stories of injustices, both social and racial, emotional depravity, lack of education and employment skills, poor health, substance abuse, transgenerational trauma and grief and confusion between European and Aboriginal ideologies can leave a therapist viewing a thirteen week program as futile in its attempts to introduce behaviour change. Therapists can be left with feelings of inadequacies. Thus facilitators must constantly monitor themselves and each other for signs of negative affects. It is essential that adequate supervision and debriefing processes be in place for therapists working in this area. This becomes especially important when a therapist is called upon to make an objective risk assessment for likelihood of reoffending. If issues such as guilt for the atrocities perpetrated on Aboriginal people and transference issues are not dealt with, assessors run the risk of bias when making an assessment, both positively and negatively, based on dynamic factors. Fortunately, for therapists engaged in sex offender treatment the Ministry of Justice has recognised and implemented ongoing supervision, case conferences and access to counsellors experienced in debriefing.

Risk Assessment

At the conclusion of the program therapists are required to assess each individual’s progress in the program and to make a risk judgement. Such judgements assist the releasing bodies in making decisions about reunification with family members, supervision requirements, further treatment options and release. Risk assessments, by their very nature, can have profound consequences for both the offender and for potential victims. As with all sex offender treatment programs, the Aboriginal sex offender pre release program follows a strict format for arriving at a risk assessment and is not without its complications. Risk assessments are calculated by assessing actuarial data based on criminal record, current offence type and previous convictions for sex offences. In addition to the use of actuarial data a psychological assessment based on observation is used to determine the presence or absence of anti social behaviours, lifestyle impulsivity, victim empathy, remorse, glibness, absence or presence of cognitive distortion, level of program participation and level of or attainment of treatment goals. Clinical judgements are relied upon due to the lack of culturally sound psychological assessment tools. Consideration is also given to the offender’s plans to integrate back into his family and the level of social and familial support he has. An assessment is also made of the offender’s sensitivity and ability to implement relapse prevention strategies.
Complications

Issues that complicate risk assessment are the relative weighting attached to different classes of risk factor. Another contributing compound is “assessor drift”, that is, therapists who have been involved with treatment run the risk of making subjective appraisals that may result in a skewed assessment. Perhaps one of the major contributing factors that can skew an appraisal is the level of program participation. It is difficult to determine whether what is being observed is co-operation or treatment efficacy. Consistent with European sex offender research findings there appears to be three main categories of program participation. Whilst some will withdraw from treatment early into the program and this is rarely the case, most will either demonstrate passive non-co-operation i.e. will continue with treatment but appear to make little progress in terms of the aims and goals of the program or some will co-operate with treatment and demonstrate program progress. Care must be exercised when assessing the offenders’ level of treatment participation. The offender’s level of communication skill ability and level of self-esteem may make it difficult to assess treatment gains.

While there are some commonalities between non-Aboriginal and Aboriginal sex offenders, it seems Aboriginal offenders have some different needs. Ideally, a statistical analysis would determine relative weighting of these factors in terms of risk assessment. However, until such time that resources and appropriate cultural expertise are available to undertake a large scale follow up study, the Aboriginal pre release program relies on the established methods adopted by mainstream therapists.

Conclusion

It would be erroneous to suggest that Aboriginal sex offenders have similar needs to those of mainstream Australian sex offenders when addressing their offending behaviour. That Aboriginal people have suffered through paternalistic policies and the effects of colonisation is not in dispute. However, Aboriginality must not be permitted to detract from the serious nature of sex offences. Certainly sex offending is not condoned in Aboriginal culture as is evidenced by the number of women preferring charges against their own men folk. For some Aboriginal offenders there is the temptation to hold on to the view that it was only white men that mistreated Aboriginal women or that sex abuse did not exist in Aboriginal communities prior to colonisation. To frame sex offences solely in terms of violence as a result of traumatisation, colonisation and societal breakdown will serve only to continue placing women at unreasonable risk. It is the author’s view that this aetiological framework will mask the similarities between the experiences of rape and child molestation for both Aboriginal and non-Aboriginal women and children. A more beneficial analysis of aetiology would be to examine the personal relationships in the domestic domain, and the relationships Aboriginal offenders have with state formations, law and the engendering of violence (Bell, 1991).

There are some that will argue that the Aboriginal pre-release program lacks “face validity”, and as such should be facilitated by Aboriginal therapists that have first hand experience with Aboriginal history. However, in the interests of cross-cultural collaboration there are some benefits to be gained by both offender and therapist by the engagement of white female therapists to facilitate Aboriginal offender programs.

There does seem to be a suggestion that the program, as it is currently facilitated, may be having an impact. Eighty percent of the programs have been delivered by white females of a mature age that have either a psychological or social work background. Prior to
implementing the program recidivism rates for untreated Aboriginal sex offenders were calculated to be 80%. Current statistical data indicate recidivism rates for Aboriginal sex offenders who have participated in the Aboriginal pre release treatment program to be 38%. Most recidivism incidences were not of a sexual or violent nature for either rapist or child molesters. Whilst viewed with caution, especially in regard to low reporting rates by victims and the imprecision of self reports by many offenders, these figures offer encouragement to program developers and treatment facilitators who may never have the opportunity to realise ongoing treatment gains made by offenders they have worked with.

Non empirical indicators that Aboriginal offenders are responsive to group therapy may be measured by offenders tears of grief, frustration, shame, breaking down of barriers, recognising emotional blockages, gaining a renewed sense of self and the development of mutual respect for different cultural ideologies. Facilitators of the Aboriginal Sex Offender Program have evidenced all of the above indicators. As a facilitator of such a program, I must endorse the continued research, development and provision of the program.

The program as it is currently structured is not with out its limitations. Recent changes have been implemented that should go some way to addressing the needs of both offenders and facilitators. It is hoped that the sharing of experience and knowledge between cultures and therapists will serve to enhance not only this sex offender program but will also assist others working in this new area. Both the Ministry of Justice, WA and the author would welcome responses to this paper and the sharing of experiences with other allied workers.
References


NORTHERN TERRITORY COURT-MANDATED PILOT PROGRAM FOR OFFENDERS OF DOMESTIC AND ABORIGINAL FAMILY VIOLENCE

Ian Castillon
Northern Territory Correctional Services

Chris Manners
Northern Territory Correctional Services

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Background

The Northern Territory Government, under the National Domestic Violence Task Force initiatives launched in 1994, received funding from the Commonwealth Government for the 1999 calendar year to pilot a court mandated program for offenders of domestic and Aboriginal family violence. The specific objective of the project involved piloting the effectiveness of a court-mandated program towards the objective of reducing the incidence of violence and abusive behaviours in referred offenders.

The Northern Territory Office of Women’s Policy, through an extensive consultative process with key stakeholders, finalised a Program Guide in 1998. Northern Territory Corrections was tasked with the implementation and management of the program. The pilot has been based on the Dobash and Dobash model (1996) and has been developed with input from the criminal justice sector including magistrates, indigenous Territorians, people from culturally and linguistically diverse backgrounds and service providers.

The overall aims of the pilot program are to:

- Reinforce to the offender that domestic violence is a crime and is not acceptable behaviour;
- Challenge the attitudes and behaviours that allow violence and abuse to occur;
- Develop in offenders a capacity to accept responsibility for the violence committed;
- Provide offenders with the new skills and strategies required to cease violent behaviours;
- Establish the safety of victims as a program priority; and
- Ensure the victims are fully informed about the program and have realistic expectations.

The Attorney General of the Northern Territory declared the Perpetrators Program within the Sentencing Act on 24 March 1999, thus enabling the Domestic Violence Offender Program to be a perpetrators program for the purposes of Division 8 Part 3 of the Sentencing Act.

Consultation Processes

Throughout the implementation of the program several consultative processes were introduced in support of the overall project including an assessment of the appropriateness of the program guide and related operational issues. In the initial period fortnightly meetings were scheduled involving representations from the Office of Women’s Policy, Corrections, the program manager and the project evaluator. The purpose of these meetings was to problem solve implementation issues, ensure the integrity of the program and clarify the program guide in terms of context. These meetings have become less frequent as the program implementation has matured. A program monitoring committee, scheduled to meet three times during the year, was established with the purpose of ensuring the terms of reference met the contractual obligations. Stakeholders involved in this committee included: Correctional Services, Indigenous Territorians, the judiciary, the police, Office of the Director of Public Prosecutions, Territory Health Services-Family and Children’s Services, Women’s Shelters, Victims Advocate and Office of Women’s Policy. In addition two sub-committee groups were established representing Indigenous men’s and Indigenous women’s reference groups. The purpose of the sub-committees has been to review the materials in the program guide in terms of appropriateness and relevance and to provide advice on implementation strategies.
The project evaluation commenced from the initial stages of implementation and as the program guide required contextualisation any recommendations requiring significant change were noted through the evaluation process.

Program guide

This document has been prepared to guide best practice program responses for court-mandated and court-referred offenders of domestic and family violence in the Northern Territory. It includes best practice standards for the delivery of support programs to victims.

The document is set out in four sections. Section one contains information on the content of the program and provides a definition of domestic and Aboriginal family violence.

Section two contains the bulk information required to guide program delivery. It includes program standards, criteria for dismissal, information on the breach process and confidentiality limitations. A checklist is included to assist program staff and ensure they have completed all safety and administrative requirements before commencing to work with individuals or a group.


Section four contains all the measurement instruments and forms applicable to program management. These documents relate to program planning, delivery and accountability procedures. Included is a checklist of assessment, orientation and safety tasks for co-ordinators and a contract for offenders to complete prior to participating in the program. These instruments can be used in their existing form or they may be modified to suit agency or delivery needs.

Program pathways

From discussions with stakeholders and Correctional Services several pathways of entry into the program were identified. These include referrals of offenders to the program, from the courts, where magistrates could refer an offender found guilty of a breach of a restraining order or a domestic violence offence. Community Corrections officers and Aboriginal Community Corrections officers can refer an offender for assessment, as part of their pre-sentence report to the magistrates or as a supervision requirement. The Parole Board and the Prison Classification Committee can also recommend that an offender participate voluntarily in the program. Failure by the participant to fulfill program obligations, where the offender has been mandated to attend, would result in the offender breaching a court order and would eventuate in their return to court.

All referrals to the program must undergo an assessment for suitability against the following criteria: level of dangerousness, drug and alcohol assessment, partner and children safety check, personal history, correctional officer report, family background, violence history, relationship history and criminal history.
Implementation

The program schedule for the pilot proposed the delivery of two prison based behavioural change groups and one community group. Each program would operate for up to 18 weeks with a three hour session per week. The 18 weeks has been divided into two six week modules, and one four week module to enable new clients points of entry between each module. To date six indigenous men have completed the first prison program, a further nine commenced the second program and six have entered the community program. Referrals have been received from parole officers, the courts, the parole board, forensic mental health and corrections.

The partners group has identified some twenty-nine partners and ex-partners who have indicated a willingness to participate in the program. A comprehensive safety plan for partners has been introduced. Information to partners/ex-partners detail realistic expectations from the program, a safety plan and feedback on the assessment and evaluation.

Implementation issues

That have arisen in relation to the program to date involve:

• The need to contextualise forms and program content to be culturally appropriate;
• The difficulty of networking with other services due to the remoteness of home communities;
• The tolerance and desensitised attitude of participants to high levels of violence;
• The need for a court precis and additional information prior to the suitability assessment;
• That flexible entry into modules reduces the trust that comes from a stable group;
• The lack of telephones to set appointment times and facilitate communication;
• Unsuitable release dates if offenders on the prison program are unable to get parole;
• Members of groups consisting of various languages and skin relationships;
• That there are no pathways or resources for offenders post program;
• The role of family pressure, payback and curses; and
• The difficulty in establishing the status of the relationship.

Resources

Allocated in support of the project include: a full-time co-ordinator/facilitator, a co-facilitator, victim support officer, a consultant to conduct the evaluation of the project and administrative support.

Project Evaluation

The project has been developed to be accountable to courts, parole boards and the police. In addition standardised measurement tools are used with offenders, and their partners/ex-partners to record and monitor violent and abusive behaviours.
Project evaluation includes:

- An analysis of the court referral processes including their effectiveness in mandating offenders to attend programs;
- The benefits/weaknesses of offering a program within a clearly defined criminal justice structure and accountability mechanism;
- Whether or not violent behaviours have changed and in particular lessened, in offenders court mandated/referred to programs in the Northern Territory, during the program and up to 12 months after completion of the program;
- The extent that the program ensures the safety of victims and children;
- The effectiveness of the program content and delivery methods in achieving program aims, the appropriateness of program content and delivery to the target group and recommendations for future development of the program;
- Identification of optimal timing for program participation to maximise impact on the offending behavior;
- Unintended outcomes of the program and problems encountered during its implementation and recommendations for future delivery;
- The location of the program within the context of the Domestic Violence Strategy;
- The location of the program within Correctional Services;
- The nature and operation of the relevant legislation;
- The development and operation of formal and informal relationships/protocols between agencies;
- Any material developed in association with, or produced to support program implementation;
- The staffing structure and location of the program;
- The role and effectiveness of the Monitoring Committee; and
- A breakdown of expenditure.

Behavioral change and influencing factors in the evaluation include the total number of participants, their mode of entry, age, cultural background, participation and attendance rates, number of offenders and partners/ex-partners who were unable to be contacted at six and twelve month post program evaluations, number of breached program orders and number of children who participated in support groups.

The summary of implementation issues highlights that the program is a pilot and requires further development. Research by Dobash and Dobash in their three-year evaluation shows that re-offending was reduced by 77% when offenders attended court mandated programs. The Northern Territory pilot incorporating six and twelve month post program evaluations, will provide valuable data in the development of effective behavioural treatment programs in Aboriginal and Domestic Family Violence.
References

Bolger A, undated, Aboriginal Women and Violence, Northern Territory University Printing and Publishing Division, Darwin.


Department of Chief Minister, 1995, Report to the Chairperson Domestic Violence Coordinating Committee on Domestic Violence Perpetrator Programs for the Northern Territory, Government Printer of the Northern Territory, Darwin.

Dobash R E and Dobash R P
1996a, Domestic Violence Perpetrator Program Report on a Consultation with Professors Dobash and Dobash, Consultation summary, p1, unpublished.


Dobash R E, Dobash R P, Cavanagh K and Lewis R,
1996a. Evaluating Men’s Programs, University of Manchester, England

1996b, Reconstructed Transcript: Dobash and Dobash Consultation on Perpetrator Programs, Ridges Capital Hill Hotel, Canberra, unpublished.

1996c, Research Evaluation of Programmes for Violent Men, The Scottish Office Central Research Unit, Edinburgh

ALCOHOL AND VIOLENCE

Les Bursill
NSW Department of Corrective Services

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
I am the Aboriginal Alcohol & Other Drugs and Hiv/Hep C Programs Co-ordinator for Corrections NSW (AOD/HHPU). I took up this position first in 1993 and then again in 1998.

My position is a recognition by NSW Corrections that treatment and Service for Aboriginal inmates in NSW Gaols is a separate issue to mainstream treatment.

Since 1993 I have conducted a series of fact finding exercises. From these exercises a number of things became clear.

1. It was very apparent that the largest group of aboriginal inmates came from communities in the “close rural” or “suburban” area. Less than 30% of the clients of the AOD & HHPU were from “remote rural” or “traditional” communities.

In fact we (and many others) have found that 70% of our Aboriginal clients come from areas such as Blacktown, Mt Druitt, Liverpool, Marrickville, Wollongong, Dubbo, Wellington, Armidale, Tamworth, Grafton or Kempsy Lismore Taree etc. Relatively few come from remote rural areas.

2. That a majority of Aboriginal inmates 80%+ had limited education, reading or writing skills.

3. That most programs that address of AOD and HHPU issues were not written with Aboriginal inmates in mind.

4. That Aboriginal inmates do not appear to respond well to non Aboriginal programs but do respond to Aboriginal orientated programs presented by their peers.

5. That methods of learning and teaching in Aboriginal and non Aboriginal cultures are very different.

6. That health issues are dealt with in a far more conservative way in Aboriginal communities.

7. That the community must be the source of any health concept or treatment method before that concept or method will have value.

From these outcomes it was apparent that an entirely Aboriginal approach, using community driven values and ideas, with content written by and presented by Aboriginal people was the obvious way to go.

If Aboriginal issues are different to the mainstream issues, then the way we present those issues to our clients must differ from the way European issues are presented.

One additional concern immediately come to light and that is that many Aboriginal people have a strong desire to learn and recover areas of their culture that had been lost to them (through adoption of children, missions and closed communities).

Therefore in any element of treatment we must also incorporate elements of culture and eliminate as far as possible non-aboriginal references.
Today I will show you some of those concepts and programs and the ideas behind them. The first package I will present deals with Alcohol and Violence.

The package has been developed to work as a small groupwork package run over 12 hours. The package can run as 12 one hour parts or 6 two hour parts.

The package was drawn from the concerns of a number of Sydney/Bathurst communities who were worried by the levels of violence in their communities and with the apparent association of alcohol abuse with that violence.

This new package on alcohol and violence uses the concepts of RESPECT -- SHARING -- RECIPROCAL OBLIGATION and ELDER RESPECT to carry the message that violence and alcohol abuse are unacceptable in our communities and gaols.

The package was written for NSW Gaols but does not focus on gaol and can therefore be used outside of gaols as a teaching tool.

The package presents ideas and facts in both graphical and written formats that make the package easy to read or use for low literacy students.

The second part of this presentation deals with HIV and Hep C transmission.

This package was developed in response to the failure of the non-indigenous version to attract Aboriginal attendance at programs.

The changes to this HIV Hep C package include:

- New aboriginal specific content both written and audio/visual The Movie FUME.
- The renaming of the Package to reflect Aboriginal concepts eg it is now called the “Keeping Our Blood Strong” program rather than the HIV Hep C, Peer Support Program.
PREVENTING SELF-HARM IN PRISON: DO WE NEED DIFFERENT STRATEGIES FOR INDIGENOUS AND NON-INDIGENOUS PRISONERS?

Greg Dear
School of Psychology, Edith Cowan University, WA

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
The Collaborative Research Project on Self-Harm in Western Australian Prisons

The collaborative research project (Dear, Thomson, Hall, & Howells, 1998a) was initiated because the only published Australian research into self-harm in prison was essentially descriptive (e.g., Fleming, McDonald & Biles, 1992) and local prison administrators would do better to base their policies and practices on local data than overseas studies. The project aimed to identify (1) sections of the prison population who are at greater risk of self-harm, (2) the main factors that precipitate self-harm and (3) psychological and situational factors that differentiate self-harmers from non-self-harmers. This paper summarises the main findings from that study and then examines those data in relation to Aboriginality. The aim of the analyses reported in this paper was to determine whether the same conclusions regarding causes and correlates of self-harm can be drawn for Indigenous and non-Indigenous prisoners. Following this, the paper examines the related question of whether the same self-harm prevention strategies can be used with Indigenous and non-Indigenous prisoners? This question is examined in relation to each of the main prevention strategies that follow from Dear et al's data.

Dear et al. (1998a) examined 108 self-harm incidents enacted by 91 prisoners in the Western Australian prison system. Descriptive data were obtained for each incident and structured interviews were conducted with 82 of the 91 prisoners. Of the prisoners who were not interviewed, one was released from prison within 24 hours of the incident and an interview could not be arranged in time, two were considered unfit to interview due to their disturbed mental state, five declined to participate and one claimed to have no recollection of the incident, describing some form of dissociative experience. The following sections of the prison population were found to be over-represented in the sample of 91: remand prisoners, new receivals (less than one week in custody), prisoners aged 25 or less, female prisoners (although suicides by female prisoners are rare), non-mainstream prisoners (those in punishment cells, protection units or medical facilities) and those who have a recorded history of self-harm. Indigenous prisoners were neither over-nor under-represented, accounting for 33% of the sample and 36.7% of the state prison population during the period of the study.

Self-report data from the 82 who were interviewed (pertaining to 98 separate self-harm incidents) revealed four main motives for self-harming: (1) relief from psychological distress (40%), (2) escape from one's circumstances (32%; often with high suicidal intent), (3) to get someone to listen to me or take me seriously (13%) and (4) to force a change in my circumstances (8%). The factors that prisoners reported as having precipitated the self-harm were categorised into broad themes and these are shown in Table 1. Internal prison events were the most commonly reported category of precipitating factor. For the 44 prisoners who reported an internal prison event as the main precipitating factor, the specific situations reported were further categorised as: (1) conflict with other prisoners (usually involving being stood over; 22.2%), (2) conflict with staff (perceiving staff as unfair, inconsistent or incompetent; 16.7%), (3) unhappy with placement (usually related to being isolated from family; 19.4%), (4) regime restrictions (usually a disciplinary regime; 13.9%) and (5) a routine aspect of the prison setting that was perceived to be stressful (27.8%). There were no apparent differences between the types of precipitating factor reported by Indigenous and non-Indigenous prisoners. Similarly, there were no differences between Indigenous and non-Indigenous prisoners with regard to the types of motives for self-harming that they reported.
Table 1. Categories of Situation/Event Reported as Precipitating the Self-Harm Incidents

<table>
<thead>
<tr>
<th>Precipitating Factor</th>
<th>Reported as a factor</th>
<th>Reported as main factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internal prison event (eg. conflict with other prisoners).</td>
<td>70 (71.4%)</td>
<td>43.5 (44.4%)</td>
</tr>
<tr>
<td>Direct consequence of being imprisoned.</td>
<td>42 (42.9%)</td>
<td>13.5 (13.8%)</td>
</tr>
<tr>
<td>Aspect of the wider justice system (eg. bail, parole, court case).</td>
<td>20 (20.4%)</td>
<td>7 (7.1%)</td>
</tr>
<tr>
<td>Outside problems (eg. family problems).</td>
<td>41 (41.8%)</td>
<td>19 (19.4%)</td>
</tr>
<tr>
<td>Psychological symptoms (eg. drug withdrawals, PTSD symptoms).</td>
<td>30 (30.6%)</td>
<td>15 (15.3%)</td>
</tr>
</tbody>
</table>

Note. Data pertain to the 98 incidents enacted by the 82 prisoners who were interviewed. Participants were able to indicate more than one precipitating factor, but indicated what factor was the main precipitant. One participant nominated an internal prison event and a consequence of imprisonment as equally important, and hence two main precipitating factors. This person was counted as 0.5 in each of these categories for main factor.

For 71 of the 82 prisoners interviewed, Dear et al (1998a) were able to identify and interview a matched comparison prisoner for whom there was no evidence (from prison file, medical file or self-report) that they had ever self-harmed in prison. These comparison prisoners were drawn from the same area of the prison (mainstream, protection unit, medical facility, disciplinary unit) and were matched for sex, race, custodial status (remanded or sentenced) and age (within two years of date of birth). The mean age was 24.7 for the self-harm group (SD = 5.49, ranging from 19 to 41) and 24.9 for the comparison group (SD = 5.59, ranging from 19 to 42). Both groups comprised 47 non-Aboriginal and 24 Aboriginal prisoners, 41 sentenced and 30 remanded prisoners, and 64 males and 7 females.

With respect to social background, the self-harm group reported a greater number of problematic and traumatic events in their history. While the data support the notion that prisoners who self-harm have experienced a greater number of stressful life events there were only two background factors that displayed a strong association with self-harming. Three quarters of the self-harm group had been previously assessed as vulnerable in prison (i.e., not coping and at risk of self-harm) and three quarters had previously self-harmed, with both of these factors recorded for 63% of self-harmers. However, 29% of the comparison group had a history of self-harm outside of prison, indicating the high baseline prevalence of self-harm among prisoners. In general, the data are consistent with that obtained in recent UK research (Liebling, 1992; Liebling & Krarup, 1993).

The self-harm group reported a greater level of distress, disorder and vulnerability to distress on almost every measure used. On no measure did they report lower distress or dysfunction. Self-harmers reported poorer relationships with other prisoners and with staff, were more likely to have experienced threats and intimidation from other prisoners (on self-report) and were more likely to have a history of conflict with other prisoners and with staff (according to staff report). Self-harmers cited fewer sources of social support and were less likely to regard their available supports as sufficient. The ratings of coping difficulty associated with various aspects of prison (coping with night-time lock-up, recreation periods and remaining time) produced greater differences between the self-harm group and the comparison group than the ratings regarding worrying about their offence or fitting back into the outside world. This finding is consistent with
the previously outlined finding that prison related events and situations were the most commonly cited precipitants of self-harm. Dear, Thomson, Hall and Howells (1998b) reported, for this same sample, an analysis of the data pertaining to recent stressors and coping strategies reportedly used in response to those stressors. Fewer self-harmers than comparison prisoners reported using problem-solving strategies or active cognitive coping strategies and the self-harm group rated their coping responses as less effective than did the comparison group. Dear, Slattery and Hillan (forthcoming) obtained ratings from Peer-Support Team prisoners, senior prison officers and forensic psychology graduates for the qualitative data pertaining to coping behaviours from the same sample of 71 self-harmers and 71 comparison prisoners. All three groups of raters indicated that the coping strategies reported by self-harmers were less likely to reduce stress and more likely to make the situation worse than were the coping strategies reported by the comparison group. The final set of measures administered by Dear et al (1998a) pertained to psychological vulnerability and current distress. The self-harm group reported more significant difficulties with anger control, anger proneness, problematic anger expression, impulsivity, hopelessness, suicidal ideation and depression than did the comparison group. Logistic regression analyses indicated that the measures of current distress provided the best differentiation between the self-harm group and the comparison group.

A Comparison of the Data from Indigenous and Non-Indigenous Prisoners

The following is a summary of the findings that emerged when all of the measures administered by Dear et al (1998a) were examined in terms of race (Indigenous, non-Indigenous). Those readers who want more detail about the statistical analyses are welcome to contact me. Suffice it to say at this point that $\alpha$ was set at .05 and no adjustments were made to account for family-wise error.

Dear et al. (1998a) examined 23 separate social background factors. Indigenous prisoners differed from non-Indigenous prisoners on only five of these. A greater proportion of non-Indigenous prisoners reported: multiple suicide attempts outside prison, a history of sexual assault, heroin use and drug use having impacted on marital/defacto relationships. Indigenous prisoners were more likely to report having previously self-harmed in prison. Of the fifteen prison-based stressors that were examined, Indigenous prisoners differed from non-Indigenous prisoners on only four. Non-Indigenous prisoners were more likely to report: worrying about threats from other prisoners, poor relationships with other prisoners, difficulty coping with recreation times and negative expectations about being able to cope with their remaining time in prison.

Only one precipitating factor was associated with race: non-Indigenous prisoners were more likely to report precipitating factors that relate to a concern as to how one’s imprisonment is affecting family members on the outside. Only one variable related to coping behaviour was associated with race: non-Indigenous prisoners were more likely to report using problem-solving strategies as part of the coping response to the major stressor that occurred in the past week. There were no differences between Indigenous and non-Indigenous prisoners in terms of how effective they felt their coping responses were.

In terms of suicidal intent and the medical seriousness of the self-harm incident only two factors were associated with race. Indigenous prisoners were more likely to report low suicidal intent in relation to their self-harm incident and being pleased they did not die. Both of these findings are due to there being no Indigenous self-harmers older than 30; and older self-harmers were more suicidal, on average, than younger self-harmers.
In general, the above findings indicate that non-Indigenous prisoners report greater difficulty adjusting to prison and a higher prevalence of some social background factors (although most background factors were not associated with race). Race was not associated with any of the 6 measures of psychological vulnerability nor any of the 8 measures of current distress.

**Interactions between Race and Subject Group**

The most important analyses regarding race are those that examine the interaction between subject group (self-harm or comparison) and race (Indigenous or non-Indigenous) as it is these analyses that test whether the same factors differentiate self-harmers from other prisoners in each racial group.

Of the numerous interaction effects tested, the only one that was significant was a 3-way interaction between race, subject group and age on Suicidal Ideation. Suicidal Ideation scores were lower in the older age groups of non-Indigenous prisoners in the comparison group whereas Suicidal Ideation scores for Indigenous comparison prisoners did not decrease with increasing age. When age was controlled for, there was no interaction between race and subject group indicating that the level of suicidal ideation differentiated self-harmers from other prisoners in both racial groups.

The lack of significant interaction effects between race and subject group indicates that both Indigenous and non-Indigenous prisoners showed the same differences between self-harmers and comparison prisoners. The same conclusions regarding causes and correlates of self-harm can be drawn for Indigenous and non-Indigenous prisoners. Does this mean that the same self-harm prevention strategies can be used with Indigenous and non-Indigenous prisoners?

**Do We Need Different Strategies For Indigenous and Non-Indigenous Prisoners?**

While the data indicate that we need to address the same factors for Indigenous as for non-Indigenous prisoners, the strategies employed to address these factors might need to be separately tailored for each racial group. It is also important to remember that each of the two racial groups under consideration comprise a variety of ethnic variations. Indigenous prisoners, for example, can include persons from the Kimberly region, the Central Desert region, the Southwest and from the Perth metropolitan area each with varying cultural beliefs and needs. Similarly the non-Indigenous group includes persons of various European ethnic backgrounds as well as persons of Vietnamese, Malaysian and other cultural backgrounds. It might be true that for each of these cultural groups an important risk factor for self-harm is conflict with other prisoners, but that for each group different strategies are required to reduce conflict with other prisoners.

Based on Dear et al’s (1998a) data, international research findings (Hawton & Catalan, 1987; Lester & Danto, 1993; Liebling & Kranup, 1993; Toch, Adams, & Grant, 1989; Wool & Dooley, 1987) and current theories of suicidal behaviour (Harding, 1994; Shneidman, 1985; Williams, 1997) Dear (1999) outlined two broad categories of self-harm prevention strategy. These are outlined below, along with the key strategies from each category, and are discussed in terms of the central question of this paper: Do we need different strategies for Indigenous and non-Indigenous prisoners?
Dear’s (1999) first category of prevention strategy was “Reduce Psychological Vulnerability”. This includes such strategies as: provide assistance to cope with the transition from community to prison, provide assistance with legal and wider justice-system processes, provide adequate mental health services to prisoners with psychological and/or psychiatric disorders, provide supportive assistance to distressed prisoners and teach prisoners effective coping skills. While each of these strategies appear to be relevant for both Indigenous and non-Indigenous prisoners, the manner in which each is implemented might need to be specifically designed for one racial/ethnic group or another. It is unclear, without further research, whether generic programs (i.e., for all racial/ethnic groups) would be as effective as programs that were tailored to the apparent needs of specific racial and/or ethnic groups.

Dear’s (1999) second category of prevention strategy was “Environmental Interventions”, that is procedures to modify aspects of the prison environment (including the social environment) that aim to reduce, if not eliminate, situational factors associated with self-harm. This includes strategies that aim to: reduce or eliminate conflict among prisoners (particularly bullying/standover), reduce or eliminate conflict with staff, improve the quality and quantity of interactions between prisoners and officers, better match prisoners to placements and improve routine aspects of the environment so as to facilitate, rather than frustrate, prisoners’ satisfaction of psychogenic needs. Again, strategies aimed at achieving each of these outcomes appear to be relevant for both Indigenous and non-Indigenous prisoners, but the specific strategy employed might need to vary from one ethnic group to another.

In summary, strategies to prevent self-harm need to target the same factors for Indigenous and non-Indigenous prisoners, because the causes and correlates of self-harm appear to be the same for both groups. However, the specific prevention strategies that prison administrators should implement will probably need to vary according to the specific racial and ethnic population of each prison.
References


BERT WILLIAMS DIVERSIONARY PROGRAM

Alf Bamblett
Aboriginal Justice Advisory Committee, Vic

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
The Royal Commission into Aboriginal deaths in custody focussed closely on the particular issue of Aboriginal youth over-representation in the juvenile justice system and referred specifically to the linkage between involvement in the justice system at a young age and continued involvement into adulthood.

Given this inter-relationship, the Royal Commission recommended that "breaking the cycle" of involvement in the juvenile justice system was the single most important step to ensuring that Aboriginal youth are not over-represented in the adult system and do not become subsequent deaths in custody.

In this regard, the Royal Commission states:

"The first strategy to reducing the number of deaths in custody is to reduce the number of people coming into custody in the first place. The underlying social, cultural and legal factors, which bear on deaths in custody, must be addressed if this is to be achieved. It is important to stress that effecting improvements to standards of custodial care is not the solution to deaths in custody, but the last opportunity to avert those deaths which are and may be preventable."

According to the Royal Commission report, solutions to the over-representation of Aboriginal youth in juvenile justice rests on the recognition by government that Aboriginal organisations are best placed to provide the relevant supports and specialist strategies to prevent Aboriginal youth from ongoing involvement in the juvenile justice system and indeed prevent that involvement from occurring in the first place.

Statistical Overview

In Victoria, the Koorie population is much younger than the non-Koorie population. In 1996, 57% of Koorie's were under 25 years of age, with 39% under the age of 15 years.

Koorie adults are over-represented in the adult criminal and juvenile justice system at a rate of 10 (ten) to 1 (one).

In reality, Victoria has faired well compared to some of the other states in terms of this over-representation.

However, there are some significant issues of concern.

Koorie children in Victoria are 5 (five) times more likely to be on a protection and care order compared to the general population and 5 (five) times more likely to be the subject of substantiated abuse or neglect. We are over-represented in foster care at a rate of 24 times.

The degree of family breakdown in our community is one of the biggest and most critical issues we face as a community.
The fact remains that most of the kids we deal with through the Bert Williams program come from broken homes and the stats show very clearly a graduation from one set of statutory services into another.

White kids might graduate from school to high school and on to university or tafe - some of our kids and an increasing proportion of our kids are graduating from the child protection system into the JJ system and then into the adult prison system.

The Victorian ajac and many of our Aboriginal agencies and communities see this as the most important issue we need to address.

There are a number of other alarming trends. The first, which is occurring in Victoria and has been occurring nationally for some time is that indigenous youth who are having contact with the police and the juvenile justice system are becoming younger.

In 1997, Victoria had two children aged 10 years placed at the Melbourne juvenile justice centre over the Christmas period.

The second trend which follows on from this is that given the greater number of younger offenders appearing before the courts, by the time they reach adulthood they are receiving harsher sentences as a consequence of prior convictions.

Recent studies such as those compiled by the Australian Institute of Criminology indicate that indigenous people are incarcerated for offences which include offensive behaviour, good order offences, assault, driving and property offences and justice procedure offences such as breach of bonds etc.

Aboriginal people are imprisoned more frequently for these offences compared to non-Aboriginal people.

The Bert Williams program

The Bert Williams program has been operated by the Victorian Aboriginal community services association for over a 5 year period. During this time, some 1500 Koorie kids have received direct programs and services from the centre.

Koorie youth attending Bert Williams often present with a wide range of issues such as lack of housing, employment, income, poor health and a lack of connectedness to school, community and family.

The Bert Williams program is aimed at providing the linkages necessary and attendant programs and services and devise strategies aimed at addressing these complex and interrelated issues.

The services provided by the Bert Williams youth support unit are as follows:

- advocacy, support & referral
- visits & support to youth in juvenile justice centres;
- liaison with police, courts, government and non-government services;
- outreach.
We also offer a literacy and numeracy program, a variety of sporting programs and a youth mentor program.

The objectives of the program are as follows:

- to involve the relevant Koorie and non-Koorie organizations in supporting young Koorie people who are deemed to be at risk;
- promote non-offending lifestyles and positive relationships with school, community and family through role models and engage young people in productive community activities;
- provide intensive, needs oriented support to young people which includes the involvement from koorie community members;
- empower young people to understand their responsibilities relating to their risk behaviour.

The Bert Williams program has been hailed as a best practice example of service delivery for Koorie youth in the metropolitan Melbourne area. We continue to seek improvements to the quality and standard of the service through case management procedures, reporting mechanisms, client service planning processes and so on.

The strength of the program and the reason why it is successful lies in the partnership which has been achieved between Vacsal, Koorie community agencies and government.

The partnership between government and Aboriginal agencies which comes from a base which acknowledges that Aboriginal agencies have the expertise, the knowledge, the professionalism, the ability and capability to deliver and have, in fact, a proven track record in delivering best practice programs is the sort of partnership that we should be striving for. It is about a partnership built on respect – on all sides.

The Victorian Ajac, which I chair, is currently in the final stages of negotiating a landmark Aboriginal justice agreement with the government. This agreement enshrines the partnership principle. The agreement will result in the establishment of regional Ajacs and a co-operative, co-ordinated and strategic approach to the development and delivery of programs and services at a local, regional and statewide level.

From an Ajac perspective there are two critical features contained within the justice agreement which we believe will address the over-representation of Koorie youth in statutory services.

The first of these is the fact that the Victorian government had agreed to pursue an holistic approach to service delivery. The agreement contains within a coordination framework which will result in the establishment of a unit within government which will oversee and monitor the outcomes of a series of government agreement relating to Aboriginal people – agreements between the state government and federal government and Aboriginal community. Agreements in the areas of health, education, housing, as well as other state government policies and strategies.

The Victorian Ajac has a fundamental belief that a whole of government approach is required to address some of the critical issues I referred to earlier such as the breakdown of Koorie families and the over-representation of Koorie youth in the JJ system.
The other major initiative contained in the justice agreement will be the development of an Aboriginal youth strategy, which is aimed at Koorie youth from birth to 25 years of age.

This strategy, which is yet to be formulated, will contain a cross-government approach to minimising the factors which result in Koorie children coming into contact with the statutory service system. A holistic approach that focuses on family strengthening and community well-being will underpin the strategy.

There are a number of programmatic initiatives contained within this agreement. Of particular importance is the fact that the government has agreed to establish a fund for local community initiatives which are best practice in terms of diverting Koories from the justice system.

Local Koorie communities throughout Victoria have been proactive in developing programs to help our youth stay out of the justice system.

These initiatives can take a variety of forms. Examples include the Mildura Aboriginal Cooperative's Warrakoo program, which is an adult diversionary facility located in NSW but funded by the Victorian Department of Corrections. The co-operative has also established a local committee with representatives from the community together with government agencies at a state level with the aim of seeking a better coordination of programs and services.

Along similar lines, Koorie agencies in Shepparton are currently having discussions aimed at creating better relationships and linkages between themselves. They are examining the possibility of establishing a regional approach to service delivery for Koorie communities in the area.

In the western part of the state, the CDEP program in Warrnambool and Heywood has had significant positive affect in the community. Warrnambool's CDEP program is now exporting Koorie merchandise overseas and in Heywood, the Koorie community is in the process of literally buying up the town from the profits of their CDEP. The CDEPs in Geelong and Horsham are another example.

Interestingly, there have been very few Koorie youth who have come into contact with the JJ system in these communities.

There are a number of lessons to be drawn from these examples. Aboriginal communities, when given some resources from government, can build solid foundations for their communities. We hear much talk about our rights - communities are also focusing on their responsibilities - and this is something which receives very little attention within government and within the media.

There cannot be a slackening of the resolve on the part of government to the implementation of the Royal Commission recommendations.

Aboriginal agencies must be involved in partnership with government for the development of programs and services directed at our people. It is in this way that we can jointly pursue better outcomes and work on collective solutions.
DESIGN INITIATIVES IN THE NORTHERN TERRITORY FOR INDIGENOUS INMATES

Philip Brown
Northern Territory Correctional Services

Stewart LaBrooy
Northern Territory Correctional Services

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Introduction

In the Northern Territory, Correctional Services currently provides safe and secure custody for around 620 adult inmates, against a prison design capacity of 760 offenders, and for approximately 20 juvenile detainees, against a design capacity of 54 offenders. Our Correctional facilities received over 1,650 individual persons during 1997/98, both adult and juvenile.

Indigenous representation in all institutions is high, and has consistently averaged over 75% of the total prison population during the past ten years. The NT Correctional Services 1997/98 Annual Report indicated that our imprisonment rate was over 459 persons per 100,000 population, the highest in Australia. With the majority of Indigenous people in prison being Aboriginal people from remote areas (most of whom speak English as a second or third language) accommodation, health and education issues are critical factors in their ongoing management.

Costs associated with population dispersion, particularly the distances covered by NT Correctional Services' operations (over 1.3 million km²), and the high proportion of Indigenous people in our Correctional facilities continue to be issues of concern. Further, the relatively high recidivism rate in the Territory (of 35%) and the factors leading to repeat offending behaviour continue to present complex challenges for this and other relevant Agencies.

Progressive growth in prison occupancy levels, averaging at 15% over the past two years, has occurred predominantly from the Northern Territory Government adopting a 'truth in sentencing' philosophy in terms of its legislation. This has generally resulted in a trend to increased stays in prison with a consequent growth in prisoner numbers.

Accommodation Standards

Under the 1994 Standard Guidelines for Corrections in Australia, sections 5.23 to 5.24 favour the provision of accommodation in single cells or rooms, with due regard to climatic conditions that should endeavour to create an environment which is not destructive to an individual's spirit. The provision of dormitory or multiple cell accommodation is suggested for the management of particular prisoners.

It can be argued that in the Territory we have had long experience in the management of Aboriginal offenders, and with some considerable success. Aboriginal offenders have been found to be less able to tolerate isolation in custody than a person of non-Aboriginal descent. Single cells are avoided (or not requested) where possible, unless there are persuasive reasons to the contrary. It should be noted that even prior to the Royal Commission into Aboriginal Deaths in Custody, the Territory was housing Aboriginal offenders in dormitory style accommodation. Our current statistics on Deaths in Custody show that we have had ten fatalities since 1990, four of which were by natural causes.

Recommendation 173 of the Royal Commission states that initiatives directed to provide a more humane environment through introducing shared accommodation facilities for community living should be supported, and pursued in accordance with experience and subject to security requirements.
Darwin Correctional Centre

Darwin Correctional Centre is a multi-functional prison which was built in 1979 with an original design capacity of 160 offenders, and includes remand/sentenced male and female offenders. It is the Territories main reception prison. Major re-building works commenced in early 1997 to:

- Build a new medium security block;
- Create a new low security area;
- Expand accommodation in the female prison; and
- Most recently to rebuild the inmate reception, food services and medical clinic areas.

This building program has progressively increased accommodation capacity to the existing 360 offenders. The Reg Willard Medium Security Complex, was designed to accommodate 100 medium and minimum rated offenders. It consists of ten x 8-person and two x 10-person dormitories. Each dormitory has its own toilet and shower facilities, with a fridge, tea making facilities, TV, bunk beds and personal lockers. The Complex meets all the recommendations of the Royal Commission, with the notable exception of hanging points. However, there has never been a suicide in any dormitory accommodation block in the Territory.

The Medium Security Complex won recognition in 1998 by the Royal Australian Institute of Architects (NT Chapter) for the best Public/Institutional Building in the Territory. Design considerations included:

- Security management requirements;
- Availability of peer and family support;
- Offenders being housed with members from their own communities; and
- Suitable for the Territories varying climatic weather conditions.

The Award comments stated: "This design represents an important social comment on the housing of Aboriginals in custody. Instead of providing individual cells, the inhabitants are housed in 12 groups of cells which have the feeling of being relatively open, with mesh walls, raised ceilings, louvre gallery walls and ceiling fans. Socially, the inmates are grouped together so that they can look out for one another and have a relatively large space around them compared to being in air-conditioned cells."

The Low Security Area recently constructed adjacent to Darwin Correctional Centre, but within the secure perimeter, houses up to 58 inmates and is used predominantly for offenders on the Community Work Parties as well as inmates doing Vocational Training and Education courses. All occupants must have open or minimum security classification levels. Accommodation is provided in air conditioned demountables featuring dormitory, double bunk rooms and single rooms. Most rooms open out onto a large covered area, and recreation activities are provided in the form of music, art and hobby craft.
Alice Springs Correctional Centre

The Alice Springs Correctional Centre, NT Correctional Services’ main long term holding facility, was commissioned in 1997 with an initial design capacity for 400 offenders, and scope for further increases. Due to the Centre’s relatively remote location 25kms from the Alice Springs township, additional low security cottages were built outside the main security perimeter. These cottages, constructed prior to the main prison complex, won the best Public/Institutional Building Design Award in 1995 by the Royal Australian Institute of Architects (NT Chapter).

The design features of the whole Alice Springs Correctional Centre emphasise its environmental context with most structures complementing the desert bush colours and contours. Extensive re-vegetation using a variety of local native plant species (particularly those with edible and nutritional qualities) has resulted in the Centre having a low visibility profile, while maintaining its high security rating. Landcare initiatives through Greening Australia have seen members from some remote communities harvesting seeds from these plants to re-vegetate areas that have been degraded.

The low security cottages have been particularly successful in developing self-esteem and instilling responsibility in the prisoners accommodated there. The occupants are encouraged to prepare and cook their own meals, clean the accommodation and eating areas, as well as participate in the organisation of these activities. The cottages were built next to the main oval, that is used for several recreational activities.

Summary

NT Correctional Services’ Classification and Security Assessment procedures and guidelines take into account a prisoners individual or special needs. In the case of Aboriginal and Torres Strait Islander prisoners, traditional and cultural values are to be specifically considered in placing prisoners, and allow for the placement of prisoners at the lowest security rating appropriate to the individual risk. Large family and clan groups are common within Territory Correctional Centres, and particular care and effort is directed at ensuring all inmates are housed, whenever possible, with their countrymen.

The design features and modifications to the Darwin and Alice Springs Correctional Centres have taken into account the cultural needs of Aboriginal and non-Aboriginal offenders. Both Centres, and particularly the new Alice Springs Correctional Centre, are designed to meet the long term needs of the Northern Territory, and the designs comply with the highest national and international standards for prisons, including the majority of the Royal Commission’s recommendations.
OUTREACH SERVICE TO
INDIGENOUS PROBATIONERS

Robert Brown
University of Newcastle, NSW

John Scantleton
Casino District Office
NSW Probation and Parole Service

Don Maxwell
Clinical Psychologist, Morisset NSW

Gwenda Schreiber
NSW Department of Juvenile Justice

Paper presented at the Best Practice Interventions in Corrections
for Indigenous People Conference
convened by the Australian Institute of Criminology
in conjunction with Department for Correctional Services SA
and held in Adelaide, 13-15 October 1999
Introduction

This paper records the progress of a local adult Probation and Parole Service, a division of the NSW Department of Corrective Services, in seeking to develop services for indigenous persons under its supervision. It records attempts at best practice in response to identified needs among young Goorie adults for assistance in breaking a perceived nexus between offending and substance abuse. The program was conducted by a community-based organisation in association with the Casino Office of the Probation and Parole Service. Of sixteen indigenous people who completed the program in one twelve-month period, intervention by two co-workers (one indigenous) using non-directive counselling in the participants' home and community environment achieved a significant reduction in alcohol consumed between entry and exit points of the program. Social functioning was found to significantly improve and interpersonal dysfunction was significantly reduced. Most participants expressed positive changes in attitudes toward substance abuse as measured by the Readiness to Change Questionnaire. The development and implementation of the program involved collaborative support from Goorie leaders, members of the Psychology Department of the University of Newcastle, who provided advice on program development and evaluation, and the NSW Department of TAFE, who provided formal training for outreach workers in substance abuse counselling. Methodological problems, practical issues and the goal of devolution of responsibility to the indigenous community are discussed.
The New South Wales, Casino office of the Probation and Parole Service supervises an area of coastal hinterlands of approximately three thousand square kilometres bounded by Whiporie to the south, Drake to the west, the Queensland border to the north and approaching Lismore to the east. The area encompasses the three Aboriginal communities of Tabulam, Box Ridge and Muli Muli in addition to significant indigenous communities at Casino, Kyogle and Woodburn/Evans Head.

The Goorie Intervention Program was developed following a need analysis of the offender population in mid 1995 by staff at the Casino Office where indigenous persons made up 48% of the client case load. The incidence of breach action for noncompliance against court orders by members of this group was far higher than for the general population. Observation of behavioural patterns suggested that noncompliance was exacerbated by the geographical isolation of the Goorie communities, substance abuse, and the inability of communities to access the existing alcohol and other drug services. Further, Goorie clients reported difficulties in reporting to Probation and Parole Service offices due to geographical constraints and it was also suspected that the probation and parole office was perceived as confining and alienating. The absence of public transport between the towns and the Goorie communities required clients of the Probation and Parole Service often to rely on the goodwill of family and friends to meet reporting obligations and to attend for counseling.

The needs analysis also supported staff observations that the majority of offending behaviour was directly related to alcohol and other drug abuse and that a minority group of recidivist offenders committed a major portion of the offending behaviour thus bringing the whole Goorie community into disrepute. This was also supported by evidence that a highly visible minority group featured regularly in the Probation and Parole Service caseload.

The underlying assumptions of the program were:

- Goorie clients of the Probation and Parole Service who do not access community-based intervention facilities to address their offending behaviour and substance abuse present a high risk of re offending, as well as to solve transportation problems.

- The provision of effective, culturally appropriate, intervention programs at the individual’s domicile or in another location seen by them as ‘their territory’ will reduce the rate of recidivism.

The program objectives were developed from the needs assessment, these were:

- To create a culturally appropriate form of alcohol and other drug intervention for Goorie offenders which would address specific behaviours directly associated with offending behaviour,

- To provide this service within the offender’s home environment, where they are less likely to feel threatened and more likely to respond positively;

- To improve the successful completion rate of supervised offenders.

- To extend the period between offending.

- To maintain dialogue with the Goorie community with a view to their shared responsibility for future program developments.
Project Description

The Goorie Intervention Program was developed in 1995 to employ specialist alcohol and other drug counseling staff to work intensively with indigenous high risk recidivist offenders. Wherever possible the counseling would be undertaken within the client’s home environment and community, or in an area regarded as ‘their’ territory.

Participants were invited to enter the program on a voluntary agreement acknowledging a significant substance abuse problem and a willingness to work toward addressing the problem. The program was explained and participants agreed to accept the terms of the counseling program, including regular visits to their home, and participate in a frank, focused evaluation encompassing responding to formal questionnaires.

Consultation and Networking

The Probation and Parole Service accepted full operational responsibility for the program, for funding and for the flow of potential clients. A contract was entered into with the Summerland Job Centre to employ a qualified Alcohol and Other Drug Counselor (the Coordinator) and a Goorie Trainee Alcohol and Other Drug Worker (TAODW). This arrangement allowed the outreach staff independence from the Probation and Parole Service. Summerland Job Center is a community-based organisation, which has provided considerable community support services over many years to the areas covered by the program. It had particularly close ties with the Goorie communities and had previously initiated employment generating programs and other welfare oriented programs for their members and was held in high regard by the respective Goorie communities. The Department of TAFE provided training for the T.A.O.D.W. through Certificate studies in Community Services (Alcohol and Other Drugs Work).

The Psychology Department of the University of Newcastle was approached to assist with planning and evaluation. A consultative group provided initial advice on standardized measures of counselling, experimental design and evaluation. Training of the outreach workers was provided on the use of the Readiness to Change Questionnaire (RCQ) (Heather & Rollnick, 1993) and the Opiate Treatment Index (OTI) (Darke, Ward, Hall, Heather, & Wodak, 1991). These measures were used with clients joining the program from the beginning of December 1996, and repeated after completion of the intensive phase of treatment (three months). The experimental design provided for a control group of Goorie Probation and Parole Service clients with drug and alcohol problems from adjoining areas who were invited to participate in assessment (RCQ and OTI) to be repeated after three months.

The Department of Corrective Services granted approval for this cooperative work. In turn the University received funding by way of a Rural Health Support, Education and Training grant from the Department of Community Services and Health to continue to provide education, training and assistance to this project. Consultation with Goorie leaders, clients, and clients’ families underpinned the project and provided an overall sense of direction and accreditation.
Methodology

The Opiate Treatment Index (OTI) (Darke et al, 1991) is a battery of standardised measures originally designed for the evaluation of opiate treatment, but potentially applicable to a wider range of substance dependence. It consists of six independent outcome domains: Drug Use, HIV risk-taking Behaviour, Social Functioning, Criminality, Health Status, and Psychological Adjustment.

The Readiness to Change Questionnaire (RCQ) (Heather & Rollnick, 1993) is a 12-item measure of the "stage of change" reached by an individual with respect to their consumption of alcohol. It is based on the stages of change model developed by Prochaska and Di Clemente (1986), and the "Quick Method" of scoring used in the study assigns clients to either the "Precontemplation," "Contemplation" or "Action" stage. It also allows for the calculation of "Readiness to Change" scores for each of these stages, although at the present time little research has been conducted into the utility of these scores.

The intervention was intended to achieve changes in attitudes toward substance abuse and to reduce consumption, and prevent relapses. In this model the alcohol and other dmg workers have sought to recast issues in terms compatible with Goorie concepts to represent the intervention as a process relevant to Goorie culture. Although the style of counseling was client centered, cognitive behavioral interventions were employed and skills training was an integral part of the program. Empowering approaches included relapse prevention methods and after care support groups were formed to help maintain new patterns of behaviour in the client.

Ethical guidelines for the provision of psychological services and psychological research with Aboriginal and Torres Straight Islander People of Australia were followed in this program (Australian Psychological Society, 1996). Essentially these guidelines require that recognition of indigenous persons' individual and collective rights be respected and acceded to, including consultation, participation and consent of the Indigenous people concerned. The process of program development and implementation was at all points subject to consultations with local Goorie leaders and their contributions has been multifaceted involving, regular meetings with community elders, members of Land Councils, indigenous workers, and those occupying formal positions in health service delivery. A paper was presented within the indigenous stream of the NSW Rural Mental Health Conference in Goorie country, at nearby Ballina, to disseminate information and to promote discussion and collaboration (Maxwell, Brown, Scantleton, Russo, & Jones, 1998).

During a one year period, chosen for specific evaluation, twenty-five persons were offered entry into the program and sixteen participated for the full period, two of whom declined to respond to the questionnaires. Data was obtained from responses to the OTI and RCQ. Eight complete data sets were obtained, and a further six sets were incomplete.

Although the OTI covers a wide variety of substances, the participants only reported use of alcohol, marijuana and tobacco. A significant reduction in alcohol use is observed between entry and exit points with average daily consumption reduced from 5.5 standard drinks to 0.9 standard drinks reported (P=.0117). There was no significant change in the use of marijuana or tobacco where there was great variability of use. At entry some smoked 20 cigarettes a day and others did not smoke cigarettes at all and these patterns remained fairly consistent to the conclusion of the program. Similarly two did not use cannabis at all, and others used
moderate amounts throughout. The two participants who recorded the highest usage at entry reduced their intake to moderate levels. The overall index of poly-drug use, representing the composite measures of these three substances, also indicated a significant reduction (P=.0173).

Participants’ social functioning as measured by the OTI was marked by a significant reduction in social dysfunction from an average of 17 on entry to 11.8 on exit (p=.0117). The norms provided for this scale suggest that, at entry, functioning was at the level below that for Australian opioid users and improved to a higher level of social functioning. Given that these norms were established for non-indigenous opiate users and reflect a somewhat different lifestyle to indigenous persons, classifications of social functioning represented by the scores obtained requires further consideration.

The OTI health scale is a symptom checklist concerned with physical health over the last month. The scores at entry (15.0) suggest the presence of above average dysfunction but a significant positive improvement to below average dysfunction (6.3) at exit is reported (P=.017). Individual responses showing improvement to general health and respiratory problems.

The OTI psychological adjustment scale (General Health Questionnaire-28) provided a total score and four sub-scale scores. Significant differences between scores at entry and exit were obtained except for the social dysfunction and depression sub-scales. The observed mean scores for somatic symptoms were 1.5 at entry and zero at exit (P=.28), and the observed differences in mean scores for anxiety was 2.4 at entry and 0.3 at exit (P=.28). The scores obtained on this scale fall below the published norms and an examination of the data suggests that this is partly a result of very low scores, particularly at exit. On the other hand several participants’ profiles on entry were quite similar to published norms. These findings suggest that the results may have been affected by factors such as socially desirable responding, defensiveness, and culturally insensitive test construction or administration.

The Readiness to Change Questionnaire (quick scoring method) provides a form of classification of subjects into one of three stages; pre-contemplation, contemplation, or action. Nine sets of data were available for analysis. The results indicate that six participants moved in a positive direction, two remained at their existing stage and one reverted to an earlier stage between entry and exit. Although the overall changes between entry and exit failed to reach significance, it will be observed from the results that the mean score at entry was 1.9 and on exit was 2.8, approximating contemplation and action stages respectively.

No significant difference was obtained between entry and exit scores for recent self criminality based on this OTI scale. These results suggest that the treatment program may have reduced criminal behaviour, at least in the short term.

While these results were based on a small of the number of Goorie participants, the evidence provided suggests that the program had an effective impact on consumption of alcohol, the primary object of abuse, and this change is reflected also in terms of attitudes to alcohol abuse, improved health and well being and social relationships. There is no reason to expect that a more substantive sample would have provided any different results. The outreach workers were reluctant to continuously resort to extensive formal questioning of all participants, for an exhaustive evaluation, as it was sensed that process often inhibited the interactions which they were trying to promote. Unfortunately an inability to gain access to
NSW Police Department records for the purpose of establishing re offending rates has meant that the long term effectiveness of the program is unclear. Impressions of local staff are, however, that those who did enter the program, and those who dropped out early were more likely to re offend than those who spent the three months in close counselling and support.

**Bench marking**

The bench marking for this program requires that it be evaluated against literature on best practice in the Drug and Alcohol field. The primary criteria for bench marking purposes drawn from a range of sources were:

- direct comparisons with similar programs,
- the presence of training for health workers that recognise and deal with alcohol problems in their clients,
- involvement of non government and government organisations in a complementary fashion,
- program development involving early detection, comprehensive assessment, and accessible treatment options based on knowledge of efficacy and ensuring a high quality of care,
- matching treatment where it is recognised that there is no single intervention that is effective for all persons with alcohol problems as different treatments are suited to different clients according to their needs,
- interventions for indigenous people that are culturally appropriate and provided by skilled professionals with education about the effects of drinking, and,
- availability of treatment and interventions aimed at increasing the socioeconomic situation for indigenous people.

In terms of the first criterion, a direct comparison with a similar programs was made between the relative effectiveness of a contemporary short-term urban-based residential treatment facility and the Casino Program. Both programs employed similar measures for substance use and attitudes toward change and both were accessible for research. Jones (1998) found that while a greater proportion of Goorie participants entered the community-based program at the earlier stage (pre-contemplation) than those entering the residential facility, there was no significant difference in stages of change twelve weeks later. In other words, the participants in the Goorie program, as a group, were marked by greater progress toward positive change than the residential group.

At the same time the Goorie group reduced their alcohol abuse significantly during the intervention period, demonstrating behaviour consistent with their expressed intentions. The residential group, by virtue of their residential status were excluded from substance use by institutional rules. Jones (1998) study points out a number of difficulties in the quasi experimental design involving heterogeneous groups of participants, and eclectic intervention processes, and the need to be conservative in bench marking between two similar but not fully comparable milieus. Nevertheless, while the bench mark comparison presented some difficulties, the evidence here seems to suggest that, for this group of Goorie people, the effectiveness of this community-based program could be as effective as a form of residential care and more culturally appropriate to participant’s needs.
As reported earlier, the second criterion requires the presence of training for health workers that recognise and deal with alcohol problems in their clients was met by use of a trained worker and a second, Goorie worker, in training.

Involvement of non government and government organisations in a complementary fashion was sought in a number of directions. Consultations with the Psychology Department, of the University of Newcastle enhanced planning, methodology and evaluation processes, but the implementation of methodology was flawed at points in practice. For example, attempts to assemble the control group consisting of Goorie probationers and parolees with drug and alcohol problems from adjoining areas had such a low response rate that this data contributed very little to the validity of this study thus making the experimental design conditions problematic. Again, the application of measuring instruments not designed for indigenous populations was also an issue as was the inability to gain access to data on subsequent offending or changes to offending cycles.

The strength of the Psychology Department’s involvement, beyond initial planning, clarification and implementation, has been its willingness to participate in an ongoing review, reflection, support of key workers and clarification of future services.

The value of collaboration with other agencies has varied. The Summerland Job Centre proved to be a very effective agency through which workers were deployed and distancing from the formality of the Probation and Parole Service. Sadly, this body was disbanded when funding for employment services was directed elsewhere. This is one example of how collaboration has been difficult where the structural arrangements for funding and provision of services by government and indigenous bodies do not align with the needs and priorities of community groups, or, in this case, those also identified by a grass roots service. These issues are compounded when those with resources are seen to be taking seemingly arbitrary decisions that affect local autonomy. It is a common observation among the Goorie communities in the Casino area that much which purports to be the provision of a raft of services, is no more than lip service and this diffusion of responsibility is typified by the ‘Camry convoy’ that comes and goes week by week.

The matching of services to participants needs and in ways that are culturally appropriate for indigenous people is a critical area for benchmarking.

Collaboration with the Goorie people has been central to the success of this program. This support is most noticeable between local individuals and leaders who have valued the Service. This support is typified by requests that the Probation and Parole Service provide more extensive services to families of offenders, and to other community members. The employment of a Goorie worker has been central to success, particularly in ensuring culturally appropriate approaches were maintained. The inclusion of standard questions about sexual activity were identified as highly culturally inappropriate by the Goorie worker is only one of many examples that could be offered. Those questions were immediately dropped from the questionnaire.

The drop out rate from the program was 36% suggesting that needs were not always met within the program. Given the characteristics of the alcohol and substance abuse, it might have been expected that some of those who did not complete the program would have realistically been willing to address their substance use under any conditions. However, it was observed that as project staff did not involve a female counselor, and this limited its acceptability to female clients. Obviously, in this situation where there is no single intervention that is effective for all persons with alcohol problems, the need to establish the reasons why persons leave a program can provide significant information about the quality of that program and the need for alternatives.
In terms of the last criteria, a goal of the Probation and Parole Service has always been to provide counselling and support aimed at increasing the socioeconomic situation for individual indigenous people who are their clients through attempting to place them in employment and engage other services to provide support services. Implicit in the goal of reducing offending behaviour, this particular program has also sought to make participants ready and able to take up opportunities such as employment or technical courses that will promote their socioeconomic status.

The local Probation and Parole Service views this program as a first step in providing services to its Goorie people. A current initiative in the Casino area is a proposed NSW Department of TAFE course of personal development and work skills and resourcing further outreach to families through a family support scheme. Several models relating to community supervision, community detention, contracting of supervision are being contemplated. Some of these models that appear to be effective elsewhere will largely depend upon the availability of Goorie people to take up the responsibilities involved.

Conclusion

The available evidence indicates a high level of acceptance of the program and program staff by local Goorie communities, confirming successful “engagement” during the establishment phase. This high level of trust and acceptance has led to increased requests for additional services, especially drug and alcohol prevention activities targeted at youth, needs which had previously been largely ignored or not addressed. The provision of training for Goorie drug and alcohol workers represents a significant shift in terms of provision of services to a within-culture perspective, which can be expected to promote a sense of empowerment and add to ownership of responsibility for dealing with drug and alcohol problems within Goorie communities.

A Service such as the Probation and Parole Service at Casino has in essence a narrow mandate within which it operates. This paper has outlined an initiative to meet the needs of its Goorie clients using the best practice possible. In the process it has been confronted with unmet demands and needs for extended services beyond its brief and with the broader volatile environment of human services with its complex structural dynamics. The question of how one keeps one’s operates effectively to fulfill that mandate when the resources are controlled within other structures is perhaps the greatest challenge for this local Service, and perhaps for many others.
References

Australian Psychology Society (1996) *Ethical Guidelines for the Provision of Psychological Services for and Conduct of Psychological Research with Aboriginal and Torres Strait Islander People of Australia*, Melbourne: A.P.S.Ltd


COMMUNITY INITIATIVE AND REFORM IN THE ADMINISTRATION OF JUSTICE AND CORRECTIONS – REFLECTIONS ON CURRENT AND FUTURE OPPORTUNITIES FOR REMOTE ABORIGINAL COMMUNITIES IN QUEENSLAND

Dr Paul Chantrill
University of New England, NSW

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Community involvement in the administration of justice and the rehabilitation of offenders has taken on renewed vigour and relevance in the period following the release of the recommendations of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC). The release of its Report in 1991 provided impetus not only for communities to assert their interests in greater self determination but it has also caused governments and agencies to take seriously options for reform that were based on community initiative. Over the course of this decade, community initiatives in the State of Queensland have been developing at pace. Research conducted by Adams and Bimrose (1995 and Chantrill (1998 (a) and 1998 (b) has provided support for the argument that greater community-based control can realise positive results suggesting that community control, self-management and innovation that have helped to prevent crime and keep people out of custody.

Today, some 30 communities in Queensland from Thursday Island to Hopevale and Mossman Gorge to Cherbourg have community-based responses in place (Department of Aboriginal and Torres Strait Islander Policy and Development, 1998). Many communities have taken an active interest in a variety corrections issues. These include advising on sentencing options, supervising correctional orders, making recommendations on parole and in calling for or actively participating in the operation of community outstation facilities. Motivated groups in communities have also been working constructively with community based parole and probation officers and other corrective service officials. A challenge that remains is ensuring the viability of community-based initiatives over the longer term, especially through the provision of funding support. In the 1999 State Budget no provision were made for the expansion of the Local Justice Initiatives Program. Successful community involvement in the administration of local justice and corrections has not yet been widely recognised and supported by the Queensland Government. One area of promising resolve and commitment in Queensland has been through programs sponsored by Queensland Corrective Services. The Commission has been willing to support new initiatives and proposals. The first major one was in supporting the pilot Aboriginal community justice groups in Queensland and more recently its efforts to consolidate a modest number of community based corrections facilities at Aurukun, Pormpuraaw, Palm Island and Woorabinda.

Prospects for the Consolidation of Community involvement in Corrections and Local Justice

In principle, the Queensland Government expresses its commitment to the implementation of the Recommendation of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC). And the principle of greater self-determination and community control of justice issues that its recommendations support. This commitment was most recently affirmed to an audience of Aboriginal elders and community leaders who gathered together to meet with Government representatives at Coming Together on Local Justice Conference (4-6 November 1998) sponsored by the Queensland Government in Cairns, November 1998. The forum provided an opportunity for interested agencies and community representatives to discuss the achievements and future prospects of community involvement in local justice. The tenor of the Conference was set by the Minister for Aboriginal and Torres Strait Islander Policy and Development, the Hon Judy Spence by acknowledging that governments did not have the answers to dealing with the continuing issues of high representation of indigenous people in the States correction and detention centres. The Minister noted that internal reforms to the police courts and prisons had not been successful in reducing levels of contact with the justice system and the time had come (however long overdue) to look to the indigenous communities.
themselves for both direction and involvement. The minister referred openly to the traditional owners across Cape York Peninsula in attendance and acknowledged the need to learn more from the elders and involve indigenous communities in the administration of community justice. The Minister acknowledged that there was much more that governments could do to support community initiative (Coming together on Local Justice, November 1998 Cairns).

The response to the somewhat ambivalent position of government or the discrepancy in thought and action has been met with indignation and a greater emphasis on looking at alternative ways to support the community justice movement. What is less generally recognised in accounting for the success of Aboriginal community initiatives is the efforts and networking activities of Indigenous communities themselves in providing support and momentum for the current development of community justice in North Queensland. Networks such as the Cape York Elders Justice Network and other informal mechanisms have served to promote and consolidate this area of reform. It is therefore appropriate to draw attention to the actions communities themselves are taking to secure the viability of their initiatives through their own networking and cooperation. Below we will explore some areas of promising community involvement in correctional and justice issues and reflect on the ways they can be sustained in the future.

Community Input into the Formulation of Sentencing Options

An initiative established and consolidated at the Palm Island community off the Queensland coast has been elder and community justice group input into sentencing options available to judges. The visiting Magistrate at the Palm Island community has displayed both sensitivity and insight in providing for community input into the determination of sentencing and the provision of background information relevant to the personal and family background of those brought before the courts. Justice Sarah Bradley related in her presentation to the Coming Together on Local Justice Conference (Cairns 4-6 November 1998) that she actively sought pre-sentencing reports from the Palm Island Justice group in each case that was heard and that in most case she acted on their advice. The advice is given in the kind and length of sentences, whether community service orders or alternative sentences be imposed and whether it was appropriate or not for people to be removed from the Palm Island community. At Palm Island, a broader range of sentencing options are now utilised featuring greater emphasis on community-based orders. This state of affairs reflects community wisdom and insight about using the external justice options as a last resort and the need for greater community involvement in the rehabilitation of offenders.

Community input into sentencing at Palm Island is now further supported with access under the Juvenile Justice Act 1993 to the formal option of community conferencing for matters dealt with by the Children's Court. It is an especially important option in providing for the institutionalisation of indigenous young people already greatly over-represented in Queensland juvenile detention centres. This initiative conforms with the major recommendations of the Royal Commission into Aboriginal Deaths in Custody concerning detention as an option of last resort and the principle of greater self determination that underlies many of the recommendations of RCIADIC.

The success of the initiatives developed at Palm Island can be attributed to a combination of strong community leadership and the willingness of the visiting magistrate to accommodate and promote the views and interests of this community leadership. The extent to which this set of arrangements is transferable to other communities remains a matter for the discretion of
individual magistrates and their capacity to work with the community elders and leaders. I put this matter to Justice McMurdo, President of the Court of Appeal in Queensland. Her response was to advise that judges are being encouraged to consider the use of community advice on sentencing. For it to be required or mandatory then the legislation concerning the functions of the courts would not to be amended and that this is not currently being proposed. In the absence of legislative reform, Justice McMurdo suggested that communities could consider preparing reports on their own initiative and presenting these to magistrates. Acting on these reports would remain a matter of discretion for the magistrate concerned. (Personal Communication with Justice McMurdo, Coming Together on Local Justice Cairns, November, 1998). The current institutional arrangements reflect on the historical theme of a lack of a power base upon which indigenous communities may assert their needs and interests.

Logic and common sense in the area legal reform has no guarantee to prevail. I have commented on another occasion (Chantrill 1998 (a) on the discrepancy between the statement of an ideal of greater community involvement and its lack of practical expression or commitment. The President of the Children's Court in Queensland, Justice McGuire, has also emphasised the good sense of allowing greater involvement of Indigenous people in the judicial process. Following a visit to the Aurukun Aboriginal Community on 3 June 1994 for a sitting of the Children's Court, Justice McGuire (1994, pp. 157-8) in his 1994 Annual Report expressed the view that:

The Aurukun people should have greater input and control over law-enforcement processes. It was thought that an Aboriginal Justice of the Peace should sit on Magistrates Courts to advise Magistrates. In my opinion, processes whereby families are brought closer to and have some real control over decisions made by the Courts are highly desirable. Without family participation, decisions made by Courts will have little, if any, benefit. Responsible and respected leaders of the community should be empowered to participate actively in the judicial process and, in particular should be afforded statutory recognition . . .

The logic expressed by Justice McGuire is irrefutable, yet it remains a matter where we have seen little substantive progress. Two areas for constructive future action include encouraging more magistrates to consider including community input into sentencing and facilitating bridge building between magistrates and communities through appropriate cross cultural training and learning.

Community-Based Corrections Officers as Change Facilitators

A particular feature of the working of Aboriginal community justice initiatives has been the working relationships they have been forged between community corrections officers and justice group members at both Kowanyama and Palm Island communities in north Queensland. John Adams, the Community Development worker from Yalga binbi institute for community development involved with the establishment of the Palm Island justice group has argued that the linkage of justice groups with the roles and function of the Queensland Corrective Services commission has been a critical aspect of their success (Personal Communication, Cairns, July 1997). Community Corrections officers at both Palm Island and Kowanyama have played exemplary roles in supporting the work of justice groups. In doing so, they have played out the delicate balancing role of community support and advocacy with that of overseeing the daily tasks associated with administering corrections (oversight of
probation, monitoring release, ensuring attendance at court and so on. At Palm Island the
position has been directly funded by Corrective Services. The position of community
development officer, justice at Kowanyama is jointly supported and funded by the
Kowanyama Community council with assistance from provided by the Queensland Corrective
Services.

The critical aspect of the role performed by the community corrections officers has been the
point of articulation and interface between the community and the external justice agencies
and institutions. It has enabled better communication and better understanding to be
established between communities and government. These support workers have assisted in
providing opportunities for communities to voice their concerns to Government agencies. In
turn they provide a point of contact for government agencies seeking to connect with relevant
centres of authority and influence within the communities concerned. The success of the
model is grounded upon the care taken to introduce a local model of justice administration
that the community has confidence in and sense of ownership of. John Adams of Yalga Binbi
Institute shared with me the rationale of the model that was circulating when it was first
mooted in 1993. (Personal Communication Cairns, 7 July 1997). At Palm Island and later at
Kowanyama, it was considered that any appointed justice group worker and or community
corrections officer be independent from the community and so ensure independence and
reduce the possibility of personal recrimination by being perceived as independent from
particular group or family loyalties. The worker should also have the confidence of the
community as a trusted advocate and facilitator. The final component of the successful
formula is the need for formal links with external government agencies, though primarily
Queensland Corrections to ensure that decisions orders and action can be enforced and
verified (Personal Communication, John Adams Yalga Binbi Institute for Community
Development, Cairns 7 July 1997).

Inevitably, the need to balance community needs with those of external agencies brings
particular pressure for justice support and community corrections officers. During a research
trip to Kowanyama I met with Dellis Gledhill employed by the Kowanyama Community
Council as the Community Development (Justice) worker. Ms Gledhill related to me the
tensions and pressures in performing her role of support in the community (Personal
Communication, Kowanyama July 1997). It was identified that through its experience of
local problems and their resolutions, the Kowanyama justice group sought to concentrate its
efforts on crime prevention and so a whole range of community and social issues that did not
strictly conform to corrections functions. Organising activities for young people involving
sport and recreation, dealing with issues of racism in the local health centre and issues of
school truancy and conducting counselling and mediation sessions have become much of the
core business of justice groups. Local justice administration has become inseparable form the
business of broader community development and the multiple roles required to support the
justice groups puts pressure on the performance of those functions related to administration of
community corrections. Ironically, this dilemma is one that should not necessarily be
disfavoured by Queensland Corrections. The more emphasis there has been on prevention,
the lower the levels of reported crime and appearances in court (Chantrill 1998 (a) and
(Department of Aboriginal and Torres Strait Islander Policy and Development, 1998).
Community Networks of Support in Innovation and Reform

Outside the gaze and associated constraints linked associated with government-administered programs, significant developments have occurred at the community level and networks were forged to support the emerging community justice movement in Queensland. Amongst these are the networking activities of Cape York communities through the Cape York Elders Justice Network (Deeral 1995). This network was originally established to coordinate Elder visits to inmates at correctional centres and as a support mechanism for Indigenous people in detention but through its key players has provided impetus to the establishment and momentum community justice initiatives across Cape York. Many initiatives in the 1995-1997 period owe as much to community-based action and support than they do to government. Initiatives at Thursday Island and another at Mossman Gorge drew inspiration, practical guidance and support from a more informal network of support. Elders continue to speak passionately and persuasively about a vision of a network linking justice group initiatives across the South East of Cape York Peninsula linking North to Lockhart River and incorporating Hopevale, Wudjal Wudjal. Cohen, Laura and Mossman Gorge (Personal Communication with Eric Deeral, Coming Together on Local Justice Conference, Cairns 4 – 6 November1998). This relates to an unfolding story about how communities are supporting each other in establishing and consolidating community responses to social and justice issues.

Regionally Based Outstation Facilities

There is the potential for a significant network of community-based support to develop and assist in the consolidation of justice groups through their own networks. A vision is offered amongst a network of community groups and Elders in the south east region of Cape York continue to advocate a vision where people form communities related through kinship and language could place children in culturally supportive environments in neighbouring communities. In the case of the communities on south east Cape York peninsula such networking as based on strong community ties, language and kinship links. The community view was that people could be placed within a network of related communities in culturally supportive environments rather than taken away to mainstream correctional institutions. A more appropriate emphasis is on assisting related communities to provide for care and rehabilitation.

The vision shares the principle of Aboriginal Child Placement employed in child protection and adoption cases where as a matter of first order priority, children should be placed in culturally appropriate circumstances and as near to family as possible. The emphasis is on rehabilitation and prevention involving education, training and appropriate cultural support for young people. These centres could be set up as pre-release or rehabilitation areas or simply as learning places. However, the accent should be on the need for cultural education. Programs need to be developed to provide for the transfer of knowledge from Elders.

A Culturally based framework of Elder Authority and Support

The Elders believe that each community has within it the seeds of its own health. The re-establishment of the roles of Elders in community law and justice programs as well as in spiritual and cultural training centres is part of regaining this health. The feature of the approach is the departure forms overly legalistic responses to justice issues in preference for what are better described as culturally based responses. The Elders refer to it this 'Bama Healing' (Eric Deeral 1995). It recognises that the practical work of justice groups by the
justice worker and the Elders at the Hopevale community is best described as cultural work (Eric Deeral, Personal Communication, Coming Together on Local Justice Conference, Cairns 4 – 6 November 1998). It involves talking to people in ways that they can relate to and identify with. It also involves preventative emphases on instilling cultural values, promoting social and cultural well being not just a reactive response to a ‘crime problem.’

This emphasis is based on the widely recognised understanding that solutions to enduring problems relate to the maintenance and transmission of cultural values. Where this has broken down and local initiatives that draw on and reaffirm Aboriginal cultural values and ‘lores’ (as distinct from ‘the Law’) to re-establish care for individuals, family and community, respect and responsibility for people and property. Communities should not be obliged to rely on prepared packages and responses delivered by government agencies any more than reactive welfare measures to deal with social issues. The frustration that has been expressed by a number of participants at the Coming Together on Justice Conference, 4-6 November 1998, is when another training package as justices of the peace or as skilled mediators is offered to Indigenous communities when there is the strong conviction that other culturally based practices may already be in place or be readily used if given recognition and adequate support. Strategies and programs that are in place or envisaged in this culturally based approach include:

* elders involvement in curriculum development and in schools;
* outstation programs based on opportunities for talking about; and strengthening culture;
* establishment and operation of community-based organisations
* promoting culture and identity; and
* mediation practices drawing on cultural ways and local skill

Responding to Community Visions for Reform

At the Coming Together on Local Justice Conference Cairns, 4-6 November 1998, much of the feedback and response from community spokespeople to government agency representatives centred on their interest to deal with justice and corrections issues locally. The Royal Commission into Aboriginal Deaths in Custody recognised the fundamental problem of over representation of indigenous Australians in custody. The Australian Institute of Criminology’s Deaths in Custody Monitoring Unit reports in its Aboriginal Deaths in Prison 1980 to 1988: National Overview No 131, October 1999 that there has been a doubling of deaths in custody and the number of indigenous Australian in custody over the 1980 – 1998 period. Concerns were also expressed at the conference about insufficient action being taken within mainstream correctional facilities to ensure effective and appropriate rehabilitation and people from more remote communities registered their concerns about family and kin being taken away from their culture to distant and alien detention centres and corrections centres close to major cities.

The case for greater community control and the major option of use of community based order and if needed, secure facilities closer to local communities has been placed firmly on the agenda of reform. Increasingly, communities are seeking permanent facilities that are locally based which can be used for corrections and more effective rehabilitation. At the conference this agenda was passed on to government officials to consider and act upon. For their part the responsibility is to find ways to fund and resource the community based
initiatives that are most likely to bear results in more effective crime prevention and the better rehabilitation of offenders. It requires a commitment to cover the costs of building new facilities and ensuring adequate standards of care in the operation of such facilities and a realistic commitment the vital work undertaken on a voluntary basis by locally based indigenous community justice groups. It seems that there is no shortage of community interest and activism and sustaining the momentum of reform. What we are still waiting for nearly a decade after the release of the Royal Commission into Aboriginal Deaths in custody is the funding and program commitment to ensure that alternatives to mainstream corrections can become viable and sustainable.

Conclusion

Genuine autonomy and choice for communities relates to the need for discretion and flexibility to act and operate in culturally appropriate ways that may not have the support or understanding of the mainstream agencies. But should this be the criterion upon which their feasibility is judged? In a very real sense autonomy is greatly compromised if all actions must conform to standards and expectations required by external agencies. The important principles developed almost a decade ago in the forum of the Queensland Government's Legislative Review Committee are still apposite:

* There must be ownership by Aboriginal and Torres Strait Islander communities of justice structures in our area;

* The criminal justice system as it applies to Aboriginal and Torres Strait Islander people needs to be accountable to the local community it serves, at all levels, including at the local level;

* Aboriginal and Torres Strait Islander communities should be able to determine and control the manner and extent to which customary law will apply in our areas.

The impression to date is that initiators of successful community schemes are reluctant to advertise or promote their methods of operation for fear that an external agency may seek to limit or proscribe their activities. This serves to reinforce the local networking activities of communities who look to each other for support. The upper ceiling or boundary that communities encounter is the familiar though pernicious rationale of assimilation that there can be only one standard or system of law and standard of treatment for all Australians.
References


Department of Aboriginal and Torres Strait Islander Policy and Development (1998), *Interim Assessment of Local Justice Administration Program,* Office of Aboriginal and Torres Strait Islander Policy and Development.

VALUED STUDENTS, VALUED EDUCATION

Pat Hodgens
Institute of Koorie Education, Vic

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Abstract

The following paper questions the appropriateness of looking for and identifying best practices. The identification and possible implementation may in fact risk some of the most important aspects of our professional obligations. There is continually evident a question of value. Other aspects that are raised are linked to the implicit values conveyed through education in the positioning and stance of particular curriculum developments. Practices inherent at The Institute of Koori Education are discussed in light of implicit values.

Valued Students, Valued Education

The concept of Best Practice seems to be highly popular and prevalent throughout much educational literature in the current climate. Common definitions of the term are linked to identifying those features of our practices which seem to lead to effective learning outcomes. Could the reasons be purely to enhance learning? Or are they in fact linked more to the drive for increased efficiency and economy in the educational arena? I wonder whether we have actually asked sufficient questions which would indeed satisfy the search for ideal solutions. If the term effective learning outcomes is critically analysed, exactly what do we mean? Are these learning outcomes of a truly educational base, or are we merely talking about neat and compartmentalised skills which signify the capacity to perform a set action in a given set of circumstances? This is not to suggest that we move forever in circles asking questions without answers. The intention is merely to ascertain the depth and breadth of the problem before setting in place ideal solutions which risk reification.

Identifying the 'best practices' of any given program or Institution can be a difficult and even dangerous task. Practices develop in context and are therefore at least somewhat context dependent. Another aspect which needs consideration here is the idea of agency. People practice, they choose when, where and how to implement certain practices. It is seldom a task performed simply, or on demand. Many things need and deserve due reflection. Reflection is part of our professional duty as educators. We are not merely technicians.

After much thought about what it is that we do at the Institute of Koori Education that may be considered to be elements of 'best practice', the focus here will be on the ideas of 'value' and 'continuity'. Neither has a recipe, however both are based on clearly identified and generally common 'real' problems which are faced by our students. There are many others within the Institute who could address such issues much more admirably and with a more authentic voice. I do not therefore, presume to speak or write for my Aboriginal colleagues, they can do this more ably than anyone else. I choose only to write from my own experience over the last twelve months. Such a limited experience does not make me an expert, I don't claim to be one. All I offer is an account of experience representative of the Institute's practices.

A Brief History

The Students in Custody Program was initially developed and implemented through the Institute of Koori Education, Deakin University in Geelong. Emerging in 1993 in response to the recommendations of The Royal Commission into Aboriginal Deaths in Custody it is now in its seventh year of operation. Part of its successful implementation is due to the fact that it emerged as a natural extension of the existing program for Aboriginal and Torres Strait Islander students. The Institute with its Board, Staff and wider community have always recognised and given emphasis to the needs of Indigenous students, focussing especially on
those entering into tertiary education. The under-representation of Indigenous students in higher education has been of major concern and is recognised as being of critical importance in working towards greater equity and improved life chances and choices for Aboriginal and Torres Strait Islanders throughout wider society. While there is an under-representation in higher education, there is indisputably a huge proportional number of Indigenous people present in custodial settings. The two factors are seen as inter-dependent. The Students in Custody Program is therefore not viewed as an added item to the overall program, but as an integral and valued aspect of the total program. The program is run in conjunction, and in consultation, with all other faculty strands offered at the Institute. It is accorded equal importance and value.

Educational Value

When considered in greater depth this issue of value is critical. For a greater majority of our students who are enrolled in degree courses, their earlier experiences of education offered anything but a sense of value. In relating their past educational experiences common threads are clearly apparent. Experiences filled with failure, alienation and uselessness dominate personal accounts.

Many students give accounts which demonstrate the disconnectedness of education to reality. Frequently insight is offered into how these students, in their early education commonly faced a sense of conflict between home and school, rather than any meaningful coherence. The lives that they actually lived were too often deemed as unsuitable material for classroom inclusion. Unable to use their lived experiences on which to base solid understanding, curriculum content came to be seen as not meaningful, not relevant and certainly not belonging to them. In many cases, education effectively worked to exclude rather than include this group. For others, removed from family, the issues related to inclusion, empowerment and self-value were more likely to have been exacerbated. Unable to understand the sense of powerlessness that pervaded families and communities, these students have been left only with questions about their own value as individuals. With history made more palatable and less visible, with agency removed, and stories unheard, many of these students have for years held only to uncontested negative views of their own worth and value. School experiences served in many cases only to reinforce these views. There would appear to be, what I term, a conditioned disempowerment evident in many students and this becomes one of the biggest hurdles.

The thought of further education as a means of making difference in their lives frequently holds little attraction. For many, it is the fear and dread of more of the same which works to effectively deny them the opportunity to access and participate in education.

The salient point here is that while the cultural, historical and sociological backgrounds of students must be considered, a relevant and purposeful curriculum which challenges these past experiences must be in place if any real and long-term success is to be gained. Further to this recognition must be given to the mode of delivery. For any program to succeed, as educationalists we need to look at making a meaningful curriculum which fits the total needs of the client. A curriculum which exceeds a narrow and marginal skill-based short term program. There is no denying that skill to perform and enhance technique is important, but unless it challenges existing mind-sets the long term effects are likely to be minimal.
During the earlier stages of curriculum development at The Institute of Koorie Education all of these aspects were taken into consideration. Existing Deakin units were examined and where possible and appropriate made inclusive of Aboriginal perspective. The re-development of these units was undertaken using a comprehensive consultative network. Mainstream unit chairs worked with staff from IKE and members of the wider community in the development of inclusive curriculum. This policy of unit construction was so successful, that in many cases, the same unit now runs across both mainstream and IKE faculties. Initially only a small number of units and pathways were offered. During the early stages custodial students were usually restricted to strands based on Australian History. These particular strands afforded opportunities to challenge long held and ingrained historical concepts. They built on issues of identity and value.

Over the years The Koorie Institute of Education, and with it the Students in Custody Program, have been broadened extensively in line with student interests and needs. This process is ongoing. Instead of offering only degrees in Arts or Social Sciences the Institute is now able to offer a wide range of pathways reflecting the needs of both students and social communities. While students in custody may not be able to access the total breadth of pathways initially, after release there is a multiplicity of choices open to them. They are provided with any necessary guidance or assistance in making these choices by a staff well placed in this area. At completion of their study these students will have a degree qualification which is capable of adding to the quality of their life options.

Numbers within the Students in Custody program have increased quite dramatically over time. With only a handful of students in the first year, much face-to-face contact was possible. Initially the program, run by the coordinator, allowed for weekly visits and up to four hours of tutorial assistance. As the program grew a need for ATAS tutors became clearly apparent. Currently in excess of 20 students are studying within the program across Victoria. Weekly visits are no longer possible, and have been replaced by fortnightly or monthly visits where alternative support is available. A much greater dependence on ATAS tutors exists and of course where there is no tutor in place, weekly visits must be maintained. Tutor time has been cut to two hours per week per semester unit due to external funding issues. The contact is crucial as it reinforces value at both an objective and a personal level.

Students are commonly referred to the program through TAFE teachers working in the prisons. Usually students have undertaken Koorie units within the education facility at the prison and have demonstrated a potential or interest to pursue further studies. While this system works relatively well it is at least partly dependent upon the quality and motivational aspects of existing units. One point that has been made by students is that they often feel as if Koorie units are not taken seriously. They perceive that because of the singular nature of these added units, that they are not truly and equally valued by others. They state that in many cases their work in these units is construed as less significant in comparison to mainstream. It is also true that in some cases students have expressed feelings of some literacy units being more of the same as that offered in their early schooling. They claim that work requirements are simplistic, childlike, demoralising and have no real value. They have passed comments that work undertaken in units has little meaning or relevance to them. Attendance is then seen as a problematic issue and reflective of the students’ disinterest rather than a lack of challenging or motivational stimuli. It is in these situations that stereotypical labels are more likely to be drawn on and used to explain poor retention rates. This is not to say that this situation is a singular and absolute truth in all cases, but it does point out that there are existing or potential problems. These problems occur in areas of students expectations, both those held by or placed upon the student, and in the area of full inclusion. Both aspects relate to the issue of value.
In accepting a student into the program, the expectation is that they will commit themselves to study, that they will do the required work and that they will make every effort to complete the unit. Recognition is given to the varying degrees of reading and writing ease that students demonstrate. Reading and writing in academic styles are not natural practices, in fact, they are anything but. No one is expected to be a master to begin with. These actions are learnt practices and can only really be achieved in the active doing. No matter how good a student is in this regard, there are always areas that they can learn more in.

One major aspect is in learning to question text, and this is an area which plagues the whole of the education system. It is a widespread problem, and not only pertinent to Koorie students. It is however, further exacerbated by a sense of disempowerment incurred in schooling for many Koorie students. Learning to question the narrow truths of text requires trust and this takes time to build. Learning to question also assumes a right to question. When so many rights have been denied throughout history for such long periods, it is not a habit that is going to develop overnight. Room, space and time are needed.

Other aspects of literacy techniques, like questioning, are worked at over time and are not expected to be immediately evident. Students will and do learn such practices in context, where meaning, purpose and value co-exist. Literacy is not a set of monolithic skills. It is a much more complex concept involving interaction, notions of power and critical analysis. It is dependent upon negotiated meaning making and cannot be transferred as traditional modes might once have unsuccessfully attempted to achieve. In academic circles now, we no longer speak of literacy as if it is singular. Much recognition is given to the reality of literacies, multiple literacies.

Mentioned earlier was the notion of trust. It is a simple concept too often overlooked and undermined, especially within the environments being discussed. However, if the idea of delivery is to be considered, it cannot be left devoid of trust. In teaching these students, or rather fostering learning, a rapport needs to be developed. Without the necessary rapport no amount of technique will achieve the scaffolding required to assist these students in overcoming hurdles. Real education is based on the idea of liberating the mind, of freedom, choice and option. The environment within which these students work does not reflect these elements of liberty or freedom. Therefore if education is to be of value and benefit it must reflect some aspects of these ideals.

Traditionally education has been placed at a distanced stance. Bourdieu refers to this as the 'scholastic stance'. Educational content is distanced, teachers feel a need for distance, we have notions of objectivity as averse to subjectivity. The whole thing is balanced on this notion of distance. Bourdieu further discusses education in history as being childlike, disciplined, authoritarian and set to serve only a few. Successful educationalists tend more to recognise the need for the interpersonal, they recognise the need to create a relationship on which to build their teaching, this teaching being based on trust. If ever we are to succeed with these students we need to take these aspects into consideration. It is not likely that they will take the steps to challenge prior histories, both personal and more global, without developing a sense of trust and right to do so. Of course these elements of teaching are less tangible than many being called upon in the current climate. They are not measurable outcomes. They can't be set out in neat packages. In many ways they denote the difference between the teacher and the technician.
Issues of Continuity

The expectation to have students complete units seems to be prevalent and weighted heavily with the current climate. One must ask whether this is always the singular most important aspect, and whether given the conditions that is always reasonable. I sometimes wonder just who is being made accountable, student or teacher? Such questioning may even lead to speculation on just who the client is? However, the expectation is there. As co-ordinator of the Custody Program it is not an expectation added or removed lightly, or without due consideration of institutional requirements and frameworks. If the situation is ideal, then the expectation is that a student will work to complete a unit. Few situations however, are what could be termed ideal.

Currently students are moved from one correctional facility to another with little notice. It can take up to six weeks after one of these transfers before a student regains full access to education facilities and privileges. Six weeks is almost 50% of the average semester. Holding an expectation that a student will complete a semester’s work in half a semester is unrealistic and unjust. Within the university we are able to negotiate on behalf of students in these circumstances. This by no means claims that an unproblematic process or ideal situation exists, but it does allow for consideration of circumstances. It does afford some flexibility. For the student however, it is much more difficult to retain a sense of recognised value in what they are striving to achieve when their efforts are accorded such poor value in bureaucratic circles. Here again, the issue of value rises to the fore.

Currently within the program we have five students who are actively studying post release. This year will witness the first full degree graduant from the program. The move from institutional settings into community and university life is not an easy transition. Coming from an institution in which little room is afforded for personal decision making, into an environment where there are overwhelming choices to be made poses many insecurities and threats to these students. It is at this time that wide support is crucial, and not abundantly available. While many prison liaison officers are now working to help ease individuals through the initial transition, and their efforts are highly commended, it is frequently insufficient to meet the sometimes insurmountable problems awaiting newly released prisoners.

Too often, on release from custodial settings these men face again the judgments made of them on sentencing. They find little or no employment, difficulty with housing and a return to a situation which does not challenge or offer any real choices. Drug and alcohol counselling proves to be elusive and inaccessible at the time it is needed. There is little available to them in real terms that might offer tangible alternatives. After having tried to work through these situations, all I can say is that the level of frustration is enormous. The sense of powerlessness to effect change can be overwhelming.

Without community support, many of these men flail under the insurmountable difficulties and pressures. Choosing to pursue their studies is not an easy option, nor does it provide the strict structure that they have often become accustomed to. Choosing this option is perhaps a first step in their own recognition of their ability to make empowered choices, and ultimately to make difference. It has been noted that first attempts to return to full-time study do not always succeed. It has also been noted that the longer a student has had access to study while serving their sentence, that the greater the likelihood of retention. One thing does remain constant. Once the choice is seen, it is harder not to see. Studying can be seen as a real challenge to former practices. It can be seen as offering alternatives. And it can and does make a difference.
At the Institute we don’t pretend to be experts, or to have perfect and unproblematic solutions. We don’t imagine that we have a single best practice. We try to make education work for its first client, with the aim that wider social benefits will flow from this. We have changed and evolved over time, as any sustainable move towards long term effective change demands. Identifying singular items of best practice may in fact risk reification. Indigenous students have already suffered too much and too long from best intentions, from reified and rigid educational practices. Whatever solution finally surfaces must be developed with input from Indigenous people themselves. Whatever solutions are developed must be part of a totality, rather than an added agenda. Further to this, whatever action is taken needs to be considered using all of our educational professionalism, rather than our efforts to be technocratically satisfying.
ACCURATE INFORMATION EQUALS EFFECTIVE INTERVENTIONS. WHO AND WHERE ARE PEOPLE OF ABORIGINAL OR TORRES STRAIT ISLANDER ORIGIN.

Gabrielle Friebe
National Centre for Aboriginal and Torres Strait Islander Statistics, NT

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
I am not a corrections practitioner however what I have to say affects us all now and into the future. This is after all the information age.

My paper is titled "Accurate Information equals Effective Interventions", and I would like to clarify that consultation remains a crucial component of effectiveness however, accurate information enhances outcomes and highlights opportunities.

It is well documented that people who are socially and economically disadvantaged are at increased risk of becoming involved with the criminal justice system.

Aboriginal people are much more likely than other Australians to be involved in the criminal justice system.

In the 1996 Census

There were estimated to be just over 386 thousand Aboriginal and Torres Strait Islander people.
- Representing about 2% of the total Australian population.
- But 19% of the prison population.

We know that Aboriginal and Torres Strait Islander people represented almost 19% of the total Australian prison population in the 1997 National Prisoner Census but make up only 2% of the overall population, and in fact incarceration rates are 10-20% higher in most states.
We know about the most serious offence or charge being assault.

**Most serious offence or charge**

- 25% of Aboriginal male prisoners are in prison for assault compared to 14% of the total male population.

And the lower % of Aboriginal prisoners incarcerated for murder, fraud, robbery, property damage and drug offences.

Of course, none of these statistics are news to this audience and we have heard loud and clear, "We've heard it all", BUT don't forget the value and power of quality information.

Over the past two days we have heard that

**Successful interventions**

As well as presenting a very different profile for involvement in the criminal justice system, Aboriginal and Torres Strait Islander prisoners have specific cultural needs – these needs can only be addressed through proper and accurate identification.

One of the limiting factors to developing targeted and culturally appropriate intervention programs is the inconsistency of identification of Aboriginal prisoners within the criminal system. The statistics we quote are based on self identification which means a reliance on the client being asked the question, "Are you of Aboriginal or Torres Strait Islander origin?". We know that you cannot determine a person's origin by appearance alone.

There has been little progress in achieving accurate and reliable statistics in crime and justice information systems relating to Aboriginal and Torres Strait Islander peoples. This limits targeted intervention programs.

There is a vast array of administrative data held by agencies at the Commonwealth, State/Territory and local levels. But in respect to recording indigenous status, are usually incomplete. The statistics we have been hearing are considered to be an underestimate.
It is important that data is comparable across States.

This consistency is important for linkages with other information bases, such as health and education so we can look at the underlying social, health and economic determinants that may predetermine involvement in the criminal justice system.

Linkages offer valuable opportunities to really understand problems and apply a holistic approach to solutions.

Accurate national statistics are vital

Why do we have so much difficulty with implementing national standards and developing these linkages? Standards that should provide us with a rich information base to support the development of robust intervention programs.

It sounds like it should be easy doesn't it!

One reason why we have so much difficulty with implementing national standards is the complexity of the data holdings within the Criminal Justice system.
I am going to give you a quick overview of what sits within those innocent looking circles. This is the

**The data flow - starting from**

`Police`

then

**The data flow - to the Courts**

and from appeal rejected or offender sentenced we move to the

**Last stop - Corrections**

This is a brief overview. However when we do analyse in this way you can see how complex the Police, Courts and Corrections systems are –

This provides numerous opportunity for under-ascertainment or recording of indigenous status data.
And, this overview doesn't look at the links between each of these systems

This complexity makes us wonder where we should start to sort out the problems.

And there is an added complication at the national level of other

issues affecting quality within
crime and justice statistics

- legislation is different in each state
- statistical counting procedures are different in each state and at each stage
- recording procedures are different in each state and at each stage
- administrative procedures are different in each state and at each stage
- information systems are different in each state and at each stage

Heard enough? But there's more, across each state there are many perceptions and various practices in the actual collection of a person's Indigenous status.

Some of these perceptions and current practices include:

- tendency for decisions on Indigenous status to be made on basis of racial appearance;
- reluctance of officers to ask the question;
- people may be unwilling to disclose information about their identity because they perceive they will receive different treatment.

We are here today to talk about best practice interventions in corrections for Aboriginal people. I have developed a picture illustrating the difficulties of developing complete and accurate information on Indigenous status. It seems like a jigsaw - but like a jigsaw it can fit together.

Let's make the pieces fit?
It is the responsibility of each sector to make sure that their piece of the jigsaw fits neatly within the big picture. Whether it be police, courts or corrections, each sector must ensure that their data facilitates the quality information for decision makers.

Information that will support a holistic view of the problem of over-representation of Aboriginal and Torres Strait Islander people within the criminal system.

For 2000, why not

If administrative data was of sufficient quality these data sets could provide extensive and timely information across states, facilitate quality policy and program development.

And don't forget

These data sets are potentially the most useful sources of information for monitoring and evaluating policy and service delivery programs.

Where do you start?

The Australian Bureau of Statistics (ABS) has implemented a number of initiatives designed to improve the identification of Aboriginal and Torres Strait Islander people in administrative collections.

These initiatives will improve the quality of information that could be made available from those collections.

working together
ABS sees the initiative to improve Indigenous statistics from administrative collections as a long term venture. This requires both co-operation and action by various government agencies at both State/Territory and Commonwealth levels, as well as Aboriginal and Torres Strait Islander people and organisations.

So

**How can we progress and develop a national standard?**

Now here is an opportunity. I know it is late on Friday but I hope that you are all still listening.

ABS will assist any state/territory or States to benchmark a sample of their prison data to assess the quality of identification of Aboriginal and Torres Strait Islander inmates.

These assessments will highlight incompleteness and inaccuracy within data holdings. But, they also allow for recommendations to be made that will assist in improving data quality.

This is a great opportunity for one or more jurisdictions to put up their hand and say yes, we want to make sure our piece of the jigsaw fits. The findings from this benchmark exercise could potentially be the foundation of a

**National standard?**

There are however some important considerations that will need to be addressed to ensure that the rights of individuals and communities are ensured. These are the considerations of ownership, confidentiality and rights of access.

I am talking about working with Indigenous groups to develop holistic approaches because we understand the LINKAGES.
OK so

What can we do?

I have mentioned the possibility, benchmarking a sample from one state to develop a clear indication of now and how to move forward.

We need to know that decisions on where resources are invested are based on solid data and not based on a hunch.

This session is about improving program effectiveness. We have heard about resourcing problems with programs and I am saying that information is a valuable tool by which we could demonstrate, based on fact, what needs to be targeted. Let us not lose sight of the value of quality data and the accurate recording of Indigenous status.

In closing, I would like to point out that such a task is made easier if you can accurately measure inequity and monitor changes over time. Initiatives to address some of the issues we have discussed require the involvement and commitment, and most importantly action, of many of you to make these initiatives work. All Australians will then benefit from your success.

Brilliant. idea??

Let's talk.

gabrielle.fribe@abs.gov.au
or phone (08) 8943 2157
CUSTOMARY LAW FOR 40,000 YEARS A PILOT
STUDY ABANDONED ...
"It is misleading to regard mandatory sentencing as the defining characteristic of the Northern Territory Government's approach to juvenile justice. The approach taken is essentially a diversionary strategy which contains a strong orientation towards the wide ranging social needs of Aboriginal Youth."

Royal Commission Into Aboriginal Deaths In Custody (Northern Territory Government Implementation Report 1996/97 p.175 (Northern Territory Office of Aboriginal Development)

A Key Responsibility

It's court day in Port Keats. Stepping of a plane on a wet season morning at this little community in the far west of the Northern Territory, is to step into a different country. Walking down the main street, the houses are dilapidated and old. The puddles lie in the street and it's hard to circumnavigate them all, especially with armfuls of court files and papers. There is a tightening of the stomach as we approach the cyclone wire enclosed compound of the court house and police station. Already there is a crowd of Aboriginal people sitting patiently on the grass, waiting to talk to the lawyer, and to go into court. Most of them are kids. Most of the are charged with property offences of a minor nature, and a lot of them will go to jail. We would be hard pressed to find one of them who can speak English well enough to understand properly what is going on. The main language spoken here is 'Murinpatha'. There are no Murinpatha interpreters to be had at the court house.

It is going to be a long day. It is a story being played out across the Territory...

The legal system which will try them boasts of a maturity born of long use. It has stood for 900 years. The legal system under which they live is given scant credit. It is 40,000 years old. The mischief here in the Northern Territory is that the Government has fixed upon a simple but far from elegant solution to the problem of both property crime and crimes against the person. It passed what are known as ‘Mandatory Sentencing laws’ on the 8 March 19977. Amendments to those laws saw them extended this year to crimes against the person, though in a moderated form.

The effect of the laws has been to increase the rate of imprisonment of Aboriginal people significantly. The laws were passed in response to a perceived public perception in the towns of the territory that property crime was a problem. But they have bitten hardest in the bush. Customary law, far from being encouraged and enhanced as a tool to fight crime in the bush communities of the Territory, it has been ignored and abandoned.

Some Principles

On a recent trip to Yirrkala in the far North East of Arnhem land, I spoke to an elder who said this:

"In Aboriginal law, there is a principle that a man may not go here, he may not go there. But a man is physically free and is not locked up inside a jail. While a black man is locked up, he is worrying about his family, his kids. He may then commit suicide. This is what happens when a man is taken away from family and the touch of the land. The sound of the clap stick and the songs. Westminster system needs to start to understand the yolono customary law. This is not the rule of man. It is the rule of law, law which has been there for a long long time."

1 Reverend Dr. Jinini Gondara: Interview at Yirrkala
The failure to make any sincere effort to understand on the part of the government of the Northern Territory has been marked and culpable.

A misrepresentation by the Northern Territory Office of Aboriginal Development...

Misrepresentation is a strong word. When an official agency misrepresents to Government a thing for which it has a key responsibility, then misrepresentation is a mighty strong fact. The Northern Territory Office of Aboriginal Development has told the Northern Territory Government that the Government policy of mandatory sentencing is having little or no effect on rising imprisonment rates of Aboriginal people. This advice is a sham. It is given in spite of clear information to the contrary and with an embarrassing lack of consultation.

The Office of Aboriginal Development ("the OAD") is an arm of the Government of the Northern Territory. It provides a focus for work in Aboriginal affairs by the Government and its agencies.

In 1991, the Royal Commission Into Aboriginal Deaths In Custody, ("the RCIADIC") after a good deal of enquiry, set out a comprehensive list of ideas to do something about the appalling over-representation of Aboriginal people at all levels of the justice system. There were in fact, 339 Recommendations made by the RCIADIC. Over the past 9 years, each State and Territory has been obliged to keep an eye on the progress of implementation of these Recommendations.

In the Northern Territory, a key responsibility of the OAD has been to produce reports looking into the progress of these Recommendations. Tabled in the Northern Territory Legislative Assembly in July 1999, is the final of these reports. ("the Report") It covers not only the period up to the 30 December 1997, but also in the opinion of this sincere critic, a multitude of sins...

An Outpost of Progress

As ‘Territorians’, our simplest but most eloquent boast is that ‘up here, we do things differently’. We are remote. The scrutiny to which public agencies are put in southern cities has never applied to us. We still do not have a Freedom Of Information Act. When we consider the history of the RCIADIC recommendations in the Northern Territory, the ‘doing things differently’ tag is most apt.

The key objective and expectation of RCIADIC was to achieve a dramatic falling away of the over representation of Aboriginal people at all levels of the justice system. By the mid 1990’s, it was clear that this was simply not occurring. The feeling around the country was that it was time to recommit to the Recommendations and the principles underpinning them.

In 1997, a Ministerial Summit was convened in Canberra and attended by representatives of Aboriginal Communities together with Attorneys General from the Commonwealth, States and Territories.
The Summit saw sincere commitment to the recommendations from all jurisdictions of the Commonwealth. With the exception of the Northern Territory. Everybody else agreed to sign a communiqué which undertook in substance to:

- aim for a substantial reduction in the imprisonment rate of Aboriginal people;
- commit each State and Territory to broker a strategic plan to tackle the further implementation and monitoring of the Recommendations to address the underlying issues of the incarceration and death rate.

The Attorney General for the Northern Territory did not commit the Government of the Northern Territory to this communiqué. He said among other things:

"We are being sidetracked if we continue complaining about the fact that when someone commits a crime and is convicted by a court that they are sentenced to jail. At that point, race, sex, country of origin is irrelevant. All that matters is that the person has broken the law and the court has decided the penalty is a period of detention. There is no point dragging into this debate the Territory’s mandatory minimum jail sentences for certain crimes. It has nothing to do with the issue."²

The path of progress in dealing with bad rates of imprisonment and death of Aboriginals was thus expressed by the Attorney General. Two years passed, bringing us to the present day. Nothing of consequence has happened since, save that both the death rate and the imprisonment rate in the Territory have increased.

It is against this background, that we now come to examine the final report of the implementation of the Recommendations. This Report was tabled in the Northern Territory Parliament in July 1999 and will be the last time the Government will receive such a Report. The Report is, in part, advice to the Government about the impact of the Territory’s laws on Aboriginal people.

Herein lies an important query. Mandatory Sentencing laws have been passed in the Northern Territory which would seem to go somewhat against the grain of the RCIADIC Recommendation. The question arises: what does the Report say about the impact of these laws? Furthermore, what is the quality of advice which is given to the Government of the Northern Territory by the office? It will be argued that:

- the Report misrepresents key facts;
- the quality of consultation in preparing the report was embarrassingly poor.

A Key Recommendation

Recommendation 92 of the RCIADIC’s findings is as follows:

That Governments that have not already done so should legislate to enforce the principle that imprisonment should be utilised only as a sanction of last resort.

The Report states that this Recommendation is supported by the Government of the Northern Territory. This support might be queried given that no such legislation has appeared upon the statute books of the Northern Territory over the 9 years since that Recommendation was made. Moreover, it appears the mandatory sentencing laws run directly counter to this Recommendation.

**The Mischief**

Whilst the support expressed in the Report is open to question, the advice to the Government of the Northern Territory set out in the Report would seem to be based of errors of a far more serious nature. The suspect advice goes to the impact of mandatory sentencing with respect to the jailing of both Aboriginal Adults and Aboriginal Juveniles. The nub of that advice from the OAD is that the law has little effect on either category of Aboriginal people.

Let us examine the advice in detail.

**Signs and Tokens: In which direction do they really point?**

The important signs and tokens which shed light on the impact of this law are whether with respect to Aboriginal adults and juveniles, since its passing:

- arrest rates are rising or falling;
- imprisonment rates are rising or falling;
- whether there has been a significant change in the type of offence for which people are being jailed;
- conditional release dispositions are rising or falling; and
- the picture at the ‘coal face’ of courts in the bush and in the towns as shown by consultation with the people who know it best: the Aboriginal Legal Services.

The following figures are based on data published in the Report, unless otherwise indicated.

**Arrest rates**

Figure 1 shows little change in the arrest rates of Aboriginal adults. In other words,
We think this a correct acknowledgement that the arrest rate has remained high given that Government policy has singled out for attention, property crime. We point out in passing that the keystone of that policy has been the passing of the mandatory sentencing law.

What then of the prison population?

Northern Territory Average Prisoner Population

Figure 2 shows the average daily prisoner population based on monthly daily averages generated by Northern Territory Correctional Services. The figures represent half yearly average daily numbers in jail from 1994 to 1997. The mandatory sentencing law began on 8 March 1997. The last group of columns shows that the average daily population jumped significantly in the last half of 1997. Aboriginal Legal Aid services report that a significant number of Aboriginal people were jailed in the last 6 months of that year pursuant to the mandatory sentencing law who would not have ordinarily been jailed. The OAD suggests a different scenario:

What does the OAD Report say?

"The existence of mandatory sentencing legislation does not explain the increase in the daily average prisoner population. The legislation was introduced in March 1997 and only came into full effect in 1998 following various appeals.

The two most likely explanations for the increase in the daily average prisoner population are:

- an increase in the likelihood of offenders being apprehended (owing to greater police numbers and efficiency; and/or
- an increase in the levels of crime.

The suggestion made that the law was not of full force and effect until various appeals were heard is misleading. While there were a number of appeals to the Supreme Court of the Northern Territory and one to the High Court, there were no stay applications brought by either the Aboriginal Legal Aid Services nor the Northern Territory Legal Aid Commission. It is correct to say though that a number of defendants did wait to have their matters disposed of till after the High Court considered the matter. However, from June 1997 onwards, defendants were pleading guilty to property offences under the law and being jailed, according to inquiries with the Northern Territory Legal Aid Commission and the North Australian Aboriginal Legal Aid Service.

The claim that the increase in jailed Aboriginal adults in 1997 is due to improved policing and/or higher crime levels is unsupported by any evidence. The OAD's failure to consult with police or Legal Aid Services before making this claim is deplorable.

\[4\] Ibid. p. 131
Figure 3 shows imprisonment rates per 100,000 population.5

What does the OAD report say?

Both the National and the Northern Territory imprisonment rates have increased steadily over the period increased far more rapidly than the National rate. The comparatively high rate in the NT is fully explained by the over representation of Aboriginal people in custody...

What is not explained is that in remote Northern Territory communities, a very large number of Aboriginal people charged with criminal offences will be caught because:

- traditional Aboriginal people will readily point out to police who was responsible for a particular offence, into which police are inquiring. The story will have 'gone around' the community rapidly and people are most willing to tell it.

- when arrested, traditional aboriginal people will readily make admissions on tape. A caution read to the Aboriginal suspect is often understood poorly and disregarded.

For these reasons, police report a clean up rate of 90% and more on bush communities in the Top End. Aboriginal Legal Aid Services report that in the last half of 1997, particularly in the communities of Groote Eylandt and Port Keats, a number of persons were jailed under the mandatory sentencing law, and suggest a jump in the imprisonment rate directly attributable to this cause.

The situation with juveniles

Arrests of Juveniles

The proportion of aboriginal juveniles has increased over the last 4 years. Figure 4 shows Northern Territory Juvenile Arrests from 1993/94 to 1996/97.

What does the OAD report say?

"The upward trend...is due to a large increase in the number of Aboriginal youths arrested during 1996/97. this jump is difficult to interpret, although one argument could be that the increasing number of police is causing a greater proportion of offenders to be apprehended. It is important to recognise that the overall number of arrests is very small so not to great a significance should be placed on the trend line." (P.144)
What is not commented upon here in the report is the alarming situation created by the arrest of a significantly higher number of juveniles, the law having been in place since March 1997. The potential to affect juveniles is drastic because:

- By far the most common offence for which juveniles are jailed for is one of property (see below);

- The incidence of relatively minor property offences among juveniles is on some communities, particularly high.

Accordingly, this Figure suggests the mandatory sentencing law has significantly contributed to the high number of juveniles arrested in the year 1997.

**Most serious offence for Aboriginal juvenile detention commencements**

By far the most common offence type for both Aboriginal and non-Aboriginal juveniles ending in detention is a property offence. Figures 5 and 6 show the pattern. 6

**Figure 5 (Non-Aboriginal Juveniles) 1995-1997**

<table>
<thead>
<tr>
<th>Offence Type</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property</td>
<td>45%</td>
</tr>
<tr>
<td>Assault</td>
<td>23%</td>
</tr>
<tr>
<td>Other</td>
<td>32%</td>
</tr>
</tbody>
</table>

**Figure 6 (Aboriginal Juveniles 1995-1997)**

<table>
<thead>
<tr>
<th>Offence Type</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property</td>
<td>43%</td>
</tr>
<tr>
<td>Assault</td>
<td>21%</td>
</tr>
<tr>
<td>Other</td>
<td>36%</td>
</tr>
</tbody>
</table>

The comments above are open to serious question on a number of grounds.

- The comment that the law would not be expected to have an impact on either of the two groups is unsustainable. Given that juveniles are ending up in custody for property offences over and above anything else, it follows that there must be a very large proportion of juveniles before the courts for property offences who prior to the advent of the law, had their matters disposed of in ways other than detention.

- The claim that detention was most commonly used for property offences is unsustainable merely by an examination of the above figures. Legal Aid sources report that the use of conditional release for property offences was widespread among Magistrates in the Juvenile Court.

---

6 Ibid. pp. 150-151
• The claim that the law may be having a deterring effect is irresponsibly made. Again, Legal Aid sources report that by far the largest number of juveniles charged with property offences come from the bush where English is regularly a second language. Here juveniles have difficulty even understanding the process of a court, let alone the nature of the laws under which they are charged.

What has happened since 30 December 1997?

A query that could be posed at this stage is whether other non-custodial dispositions available to the court prior to mandatory sentencing have shown a marked decrease. After all, if the advent of the mandatory sentencing laws mean that more Aboriginal people are being jailed for property offences, we would expect there to be a corresponding drop in the use of non-custodial options by the courts.

An examination of the latest report published by the Northern Territory Department of Correctional Services shows that there has been a dramatic decline in the use of conditional release dispositions and a corresponding increase in the imprisonment rate of both Aboriginal adults and juveniles. 7

![Figure 7 Juvenile conditional liberty as at 30 June 1998](image)

![Figure 8 Adult conditional liberty as at 30 June 1998](image)

With respect to juveniles, it will be remembered that we suggested that if there was a large proportion of juveniles being jailed for property offences and an increase in the arrest rate, we would expect that there would be an increase in the number of juveniles jailed for property offences. Again, looking at the figures in the latest report from the

![Figure 9 Juvenile detention commencements in 1997 and 1998 (as at 30 June 1998)](image)

What does the OAD report say?

It is misleading to regard mandatory sentencing as the defining characteristic of the Northern Territory Government's approach to juvenile justice. The approach taken is essentially a diversionary strategy which contains a strong orientation towards the wide ranging social needs of Aboriginal youth.

---

7 Northern Territory Correctional Services Annual Report 1997/1998 pp.82-83
Department of Corrections, we see the trends clearly. Figure 9 shows that numbers of juveniles being detained increased significantly in 1998.

It is of serious concern that in compiling its Report, the OAD apparently failed to check whether there has been a decline in the most readily available diversionary strategy to magistrates and judges. Namely conditional release sentences. These are such dispositions as good behavior bonds, 'no further trouble' orders, suspended sentences and community service orders. The facts are that they are declining in use, while detention is rapidly increasing in use.

**Conclusion**

The Office of Aboriginal Development has advised the Government of the Northern Territory that the mandatory minimum sentencing law is having little effect on the imprisonment of either juveniles or adults. This is false. The Office has misrepresented the picture with consequences that are potentially dire for bush communities. As a result of mandatory sentencing, the two of these communities where minor property crime is most prevalent may be effectively emptied of young men between the ages of 15 and 30.

An examination of the data available to the OAD in compiling its Report to the Government shows that the mandatory sentencing law is having a marked effect on Aboriginal people. The embarrassing lack of consultation evident in this Report would be quickly pointed out as culpable in a jurisdiction where such reports are more readily open to scrutiny.

The OAD has conspicuously failed in its responsibility to properly consult and advise.

It has failed to tell the truth, where the truth desperately needs to be told. To continue to jail Aboriginal people in large numbers will be to sell the tried method of customary punishment in to contempt and desolation.

---

8 Northern Territory Correctional Services Annual Report 1997/98 p. 81
PROGRAMS FOR OFFENDERS WITH ALCOHOL AND DRUG-RELATED PROBLEMS

"ENDING OFFENDING – OUR MESSAGE"

Wendy Hunter
Northern Territory Correctional Services

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference
convened by the Australian Institute of Criminology
in conjunction with Department for Correctional Services SA
and held in Adelaide, 13-15 October 1999
Like many other correctional agencies, 'rehabilitation of offenders' and 'reducing repeat offending' are key strategic directions and indicators for Northern Territory Correctional Services (NTCS). Within NTCS, the 'Offender Management Branch' is responsible for purchasing and providing a range of rehabilitation services across NTCS jurisdictions. Services include primary health care, mental health, domestic violence and sex offender programs, education and welfare.

In response to the high proportion of offenders with alcohol and drug related problems (up to 80%), over-representation of Aboriginal people in prison (up to 89%) and high recidivist rates (up to 40%), a dedicated alcohol and other drugs unit (AODU) was established within the Offender Management Branch of NTCS in 1998. With a staffing of five professional and prison officer positions, the unit operates within the two prisons, the juvenile detention centre and community corrections across the Northern Territory. The AODU is responsible for policy formulation, service delivery in the form of screening and assessments, education and treatment programs, counselling, research and evaluation, court reports and staff training. Through its policy and service delivery functions, the AODU strives to develop and implement best practice in the rehabilitation of offenders with drug and alcohol problems consistent with those outlined in numerous strategy and standards documents including the National Drug Strategy and the Royal Commission into Aboriginal Deaths in Custody.

The case study described further in this paper explores the issue of best practice in an area of service delivery relevant to interventions in Correctional Services for Indigenous people. The project is entitled ‘Ending Offending – Our Message’. It is a joint initiative between the Prisoner Education Unit and the Alcohol and Other Drugs Unit.

Health Interventions in Corrections for Indigenous People

In an Australian-wide context, some programs addressing the health needs of Indigenous prisoners have been integrated into the correctional system, however, such integration has been largely ad hoc and uncoordinated. The National Aboriginal Health Strategy (1989) identified that a co-ordinated and measured interaction of many areas or sectors of development was pivotal to the achievement of health. Similarly, the report of the Royal Commission into Aboriginal Deaths in Custody (in NT Office of Aboriginal Development, 1996) also pointed to the need for intersectoral collaboration to address the range of issues required to redress the disadvantage of Aboriginal and Torres Strait Islander People. Among its many recommendations, the report recommends the review of prison health services and drug and alcohol rehabilitation programs (recommendation 152, p151), and states that the health care available to persons in correctional institutions should be of an equivalent standard to that available to the general public (recommendation 159, p157).

Prison services for Indigenous people were also highlighted in the Human Rights and Equal Opportunity Commission Report “Bringing them Home” (1997) Recommendation 37 (p43) states:

That the Council of Australian Governments ensure the provision of adequate funding to relevant Indigenous health and medical services and family well-being programs to establish preventive mental health programs in all prisons and detention centres and to advise prison health services.
It is clear that some progress has been made in ensuring the implementation of such recommendations, however it is equally clear that this particular recommendation has not be universally achieved.

Alcohol & Drug Related Offending in the Northern Territory

The Northern Territory does not have a high rate of illicit drug use — people incarcerated for illicit drug offences constitute around six per cent of the total prisoner population. However, based on trends from other jurisdictions, it is only a matter of time before this proportion increases. It is therefore imperative to have in place a strategic response to illicit drug use and treatment. The majority of prisoners in the Northern Territory (approximately 75%) have been incarcerated for alcohol-related offences. Almost half re-offend within two years of release. Most offenders in this group (up to 89%) are Aboriginal people, many (around 60%) come from remote and rural settings in the NT and speak English as a second, third or fourth language. It costs around $170 per day to incarcerate one person. On any given day in the NT, approximately 400 people are incarcerated for alcohol and/or drug related offences, equating to a daily cost of $68 000 and an annual cost of $26 million. If the reoffending rate could be lowered by just 1% a yearly saving of $250 000 would result. Given that the average sentence length is around two years, opportunities arise to address the reoffending rate by concentrating on addressing the offender’s problematic alcohol and/or drug use whilst they are incarcerated.

Recidivism rates are not the only factor providing impetus for change in this environment. The Royal Commission into Aboriginal Deaths in Custody made numerous recommendations regarding the provision of Aboriginal health and substance use services (NT Office of Aboriginal Development, 1996). Among the many recommendations, the Report noted the following:

- It is inappropriate to focus on any one single explanation of Aboriginal alcohol issues (recommendation 70);
- Corrections and Aboriginal Health Services should review the provision of prison health and alcohol treatment services (recommendation 152);
- Correctional staff should be trained in cross-cultural issues (recommendation 228).

The Royal Commission Report is only one of a number of documents addressing the issue of rehabilitation, health care and drug and alcohol treatment in correctional settings. In the last ten years, a multitude of reports, inquiries and standards have been developed that address, inter alia, these issues and provide benchmarks as to appropriate practice in this area. They include:

- Standard Guidelines for Corrections in Australia (1994)
- National Drugs in Prison Strategy (Draft, 1998)
- Aboriginal Health Strategy (1989)
• NTCS Strategic Directions (1996)
• NT Living With Alcohol Framework for Action (1991)
• National HIV/AIDS Strategy (1992)
• UN Principles for Persons Deprived of their Liberty
• UN Principles for the Protection of Persons With a Mental Illness

Each of these reports provides specific guidance as to what constitutes ‘best practice’ in the area of offender rehabilitation. They also provide a clear message that if correctional systems are not operating according to these guidelines and standards, it is time that they changed.

What is ‘Best Practice’?

It is clear that the above documents establish a ‘benchmark’ for performance in the area of rehabilitation for offenders with alcohol and drug related problems. Further, based on the broad characteristics of a best practice organisation as espoused in the Australian Best Practice Demonstration Program (1991), best practice in this field should incorporate the following elements:

• Intra and inter sectoral strategic planning;
• Commitment by the Government to the principles of harm reduction;
• A multi-disciplinary team approach to rehabilitative service delivery;
• Acceptance and support of a harm minimisation paradigm by the Prison Officer Associations;
• A willingness to explore new models of service delivery and implementing progressive drug policy;
• More flexible work environments;
• Respect for clients of services (ie, drug using offenders), victims of crime, disparate cultural groups and taking into account the needs of the broader community;
• Development of closer links and networks with external alcohol and other drug and health service providers;
• Establishment of sound data collection, analysis and benchmarking systems and support of continual research and evaluation.
Case Study in Best Practice – Ending Offending – Our Message Project

Based on these principles, the Ending Offending Our Message project represents best practice in prisoner rehabilitation. The project represents an innovative and collaborative approach to alcohol and drug interventions for Indigenous people in the Correctional setting. Using art and music as primary mediums and incorporated into nationally accredited training modules, participants are exploring, conceptualising and sharing with others their stories about drinking, offending, culture and community. Through this process of mutual discourse alternative patterns of alcohol use are explored, promoted and reinforced not only within the Correctional Centres but also through consultation and promotion within participants' home communities. A number of language groups, covering most of the NT are involved including Western Arrernte, Walpiri, Luritja, Kunwinjku, Murrinh-Patha, Gupapungu, Anindilyakwa, Tiwi and Yolgnu.

Over 150 male and female prisoners in Darwin and Alice Springs are involved in this 'world first' initiative. Participants are producing a collection of stories, paintings, songs, a music CD and interactive web site addressing the issues of offending and alcohol and drug use. Throughout this process, they receive nationally accredited training in areas such as literacy, music and art industry skills, computing, woodwork and trades.

Overall, the ‘Ending Offending Our Message’ project focuses on the following main themes:

- **Reducing recidivism** by increasing employment prospects on release. The major factors associated with recidivism are poor employment prospects, limited education and the harmful use of alcohol and other drugs.

- **Reducing the negative consequences of alcohol and drug use** through an exploration of the relationship between alcohol and offending and participation in therapeutic alcohol and drug programs. Prisoners involved in this project are also participating in alcohol and drug programs such as the ending Offending Alcohol Education program and the Illicit drug Peer Education Program.

- **Enhancing the process of restitution and reparation** to the community. The process of mutual discourse between the prisoner and the community will encourage further dialogue between the offender and their home community. (One of the fundamental principles of 'restorative justice' is to further involve the community in the process of 'justice'.) Further any profits resulting from the sale of artwork and music will be redirected into community-based projects.

- **Fostering Partnerships in Aboriginal Development.** The project provides Aboriginal inmates with the opportunity to:
  - Achieve greater ownership of issues affecting their lives;
  - Experience an increase in employment and enterprise on release from prison - the Aboriginal presence in the art and music industries far exceeds the Aboriginal proportion of Australia's population. In 1998, 68% of Australian art sold overseas was of Aboriginal origin (Australia Council, 1999). Despite being only 1% of Australia’s population, 23% of contemporary music sales in the same period were of Aboriginal origin. This represents a substantial resource in terms of industrial opportunities available to inmates; and
  - Enjoy improved health and education outcomes.

The project is being evaluated in regard to its process, impact and outcomes.
Northern Territory Correctional Services – A ‘Best Practice’ Organisation?

Whilst the project described above reflects ‘best practice’, the achievement of best practice in NTCS as a whole is constrained by many factors, including a lack of commitment by Government to pursue a harm minimisation framework in relation to drug related offenders. If it can be assumed that ‘harm minimisation’ is a best practice benchmark by which to assess current service delivery, the organisation must contend with a range of constraining factors including, but not limited to, the following:

- Reoffending of alcohol and drug related offenders is contingent upon a number of factors including employment status and education. NTCS is limited in its ability to address underlying social and economic factors.
- There is a lack of a ‘whole of government approach’ to alcohol and drug issues – innovative harm reduction policies are apparent in the health services area (eg the introduction of a tax on alcohol to support treatment and rehabilitation), but lacking in the correctional services area.
- There is a basic philosophical rift between what is considered to be the primary purpose of incarceration, ie, punishment versus rehabilitation.
- The very nature of prisons makes it difficult to address drug use from a harm minimisation perspective in that prisons are there to prevent and deter illicit drug use.
- Offender and drug user rehabilitation issues do not ‘win votes’. Politicians are not particularly interested in corrections issues, provided there are no escapes. Further, the community is generally apathetic toward prisoner rehabilitation measures.

The Northern Territory is a fine example of a truly multi-cultural and culturally rich environment. In order to capitalise on its inherent wealth and value, NTCS is in a position to become world leaders in the area of culturally appropriate and meaningful offender rehabilitation strategies. The way forward may be perceived as contrary to the status quo, it may challenge and question the way in which we do our business, yet it will reflect a more humanitarian and inclusive way of ‘doing business’. Northern Territory Correctional Services not only has a duty to strive towards ‘A Safer Community’ but to do so in a way that is sensitive to differing cultures and maintains the balance between care and coercion. It is with these basic principles in mind that the following recommendations are made.

Recommendations For Change

It is beyond the scope of any organisation to significantly change the attitudes and values of the Government of the day. It is also beyond its scope to change the social and economic structure of society. It is therefore incumbent upon any organisation, and individual employees to actively pursue ‘best practice’ in their particular field, within a framework of social justice and basic humanitarianism. To better align NTCS within this ‘best practice’ framework, the following recommendations are made:

- Intra and inter sectoral strategic planning processes that involve Aboriginal health and welfare organisations.
- The establishment and agreement across NTCS about drug policy and treatment objectives.
• Implementation of holistic sentence planning processes that focus on drug and alcohol intervention needs.
• Equitable and defined budget allocation between ‘custodial’ and ‘rehabilitation’ areas.
• Supportive and consistent policies across all areas of Government.
• Sound and appropriate research and evaluation processes across NTCS.
• Recognition of the need to identify gaps in offender rehabilitation service delivery, and who is best placed to deliver those services (ie, allocation of resources, contracting out services etc).

Northern Territory Correctional Services is in a prime position to become a world leader in offender rehabilitation. Indeed, projects such as ‘Ending Offending – Our Message’ reflect world best practice in Indigenous interventions. The offender population is relatively small, access to Government officials is direct and the human resources required to achieve best practice are generally committed and motivated. With a good deal of perseverance, preparedness to take ‘one step forward and two steps back’ and an innate belief in and respect for humanity, NTCS is well positioned to become a best practice organisation.
References

Australian Best Practice Demonstration Program (1991), What Is Best Practice? Best Practice Program


Northern Territory Correctional Services (1996) Strategic Directions Government Printer of the Northern Territory


United Nations Principles For the Protection of Persons Deprived of their Liberty

United Nations Principles for the Protection of Persons With a Mental Illness

8
CORONIAL BEST PRACTICE

Alastair Hope
Coroners Court, WA

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
The Purpose of the Coronial Review

In the introduction to the Guidelines for Coroners which have been issued pursuant to section 58 of the Western Australian Coroners Act 1996, the essential purposes of the Coroners Court are set and one of those purposes is described as follows —

"It is the paramount duty of any State to protect the lives of its citizens. To this end, it is important that the Coronial System monitor all deaths and particularly that it provides to the community a review of the circumstances surrounding deaths that appear preventable. Every effort should be made to obtain recommendations which might prevent similar deaths in the future".

In addition the Coroner has a vital role to play as an independent judicial officer serving the Crown and the public. It is in the interests of all that the circumstances of certain types of death are carefully and independently examined in public. It is of particular importance that deaths in custody are so examined.

Procedures

Recommendations 6-40 of the Royal Commission into Aboriginal Deaths in Custody provide an important guide for approaching Coronial investigation. In my view a helpful exercise is to list each of those recommendations and against each recommendation note the steps which have been taken to implement that recommendation. The document so prepared should be reviewed from time to time so as to ensure that the recommendations are being effectively implemented.

The Various Steps Following a Death in Custody

(a) The Report of the Death

(i) Recommendation 10 provides that custodial authorities should be required by law to immediately notify the Coroners Office of all deaths in custody. That recommendation is implemented in Western Australia by section 17(5) of the Coroners Act 1996.

(ii) Recommendation 11 provides that all deaths in custody should be required by law to be the subject of a coronial inquiry culminating in a formal Inquest conducted by a Coroner. This recommendation is implemented by section 22(1) of the Coroners Act 1996.

(iii) Recommendation 12 provides that a Coroner inquiring into a death in custody should be required by law to investigate not only the cause and circumstances of the death but also the quality of care, treatment and supervision of the deceased prior to death. Section 25(3) of the Coroners Act 1996 requires the Coroner to comment on the quality of the supervision, treatment and care of the person while in that care.

(iv) Recommendation 19 requires immediate notification of the family and recommendation 20 requires notification of the Aboriginal Legal Service in the case of any Aboriginal or Torres Strait Islander death in custody. These recommendations have been implemented in Western Australia by Guidelines issued by the State Coroner.
In addition, it is often necessary for a grief counsellor attached to the Coroners Court to liaise with the family. It would be particularly helpful in this regard to establish a network of concerned Aboriginal persons who could liaise with grieving families and who would be aware of cultural concerns and family difficulties.

(v) In Western Australia there is a right to object to a post mortem examination. Issues relating to objections and retention if applicable often need to be discussed with families as the post mortem examination may provide important evidence in the investigation.

(vi) The family may wish to have an independent doctor present at the post mortem examination and section 35 of the Coroners Act 1996 provides that the Coroner is to allow that doctor to be present. Recommendation 25 provides that in normal circumstances the family should be entitled to have an independent observer at any post mortem examination. Requests to have an independent observer present are usually complied with.

(a) The Investigation

Each death in custody must be thoroughly investigated which involves ensuring that the following steps are undertaken—

(i) A pathologist or other doctor is involved at an early stage and where possible a post mortem examination is conducted by a pathologist;

(ii) That an appropriate independent experienced police officer is involved in the investigation and where police involvement is being investigated, a senior officer of the Internal Investigations Unit or similar is responsible for ensuring that an independent investigation takes place;

(iii) If the death occurred in a prison, a report should be required from the Internal Investigations Section of the Custodial Department concerned. In addition a report may be required on behalf of the Department explaining procedures and action taken since the time of death until the time of Inquest.

(iv) Counsel Assisting should be involved from the outset and should monitor the investigation, review reports as they become available and ensure that the Inquest will be thorough.

(v) Procedures should be in place in the Coroners Court to ensure that the family is adequately informed as to developments.

(a) The Inquest

At the Inquest it is important to ensure that issues relating to the quality of the supervision and treatment of the person while in care are thoroughly examined. It is also important that there should be an opportunity for the family to contact counsel assisting, grief counsellors or volunteer court companions so that the family can be advised of development and the Coroners Court can be made aware of family concerns and the issues which the family consider to be important.

Aboriginal families are usually represented at Inquest hearings by a lawyer who ensures that family concerns are raised.
Findings and Comments of the Coroner

Coroners are not allowed to frame Findings or comments in such a way as to determine questions of civil liability or to suggest that a person is guilty of an offence. In some jurisdictions a Coroner may commit a person for trial, that is not the case in Western Australia under the 1996 Act.

The Coroner's finding should be provided in a reasonably short period after the Inquest and should specifically address the quality of the supervision, treatment and care of the person while in custody.

In addition Coroners often make recommendations with the view to preventing similar deaths in the future.

Matters of Concern to the Community at large which may be addressed at Inquests Reviewing Deaths in Custody

In cases of deaths in custody the causes of death often reflect trends existing in the community at large. Suicide is a major problem in Australia and Coroners should keep abreast of developments in dealing with Suicide issues both in custody and in the wider community.

There are a number of issues relating to Aboriginal Health which should be of particular concern to Coroners and these issues are evident as much with prisoners in custody as in Aboriginal communities. Problems associated with heart disease, diabetes, smoking and alcohol abuse etc. are leading to unacceptably high death rates both in and out of custody. The existence of those problems and steps being taken by health professionals to address the problems need to be taken into account by Coroners.

Working for Improvement

There are a number of different ways in which the Coroner can work towards improvement both in the standard of investigation and the Coronial procedure and in the actual treatment and management of prisoners.

By allowing evidence of changes which have taken place following deaths to be provided at Inquest hearings, Coroners give authorities an opportunity to address important issues in a timely manner.

Coroners may seek to improve the standard of reports, for example, by seeking different types of reports from custodial authorities or by directing police investigations.

Conclusion

An observation by the learned authority, Mr K M Waller, expressed at p.28 of his book “Coronial Law and Practice in New South Wales” (3rd edition) explains in part the importance of the review of deaths of custody by the Coroners –

“... by making mandatory a full and public inquiry into deaths in prisons and police cells the Government provides a positive incentive to custodians to treat their prisoners in a humane fashion, and satisfies the community that deaths in such places are properly investigated”.

4
RISK, NEEDS AND RESPONSIVITY IN VIOLENCE REHABILITATION: IMPLICATIONS FOR PROGRAMS WITH INDIGENOUS OFFENDERS

Kevin Howells
University of South Australia, SA

Andrew Day
University of South Australia, SA

Stuart Byrne
University of South Australia, SA

Mitch Byrne
University of South Australia, SA

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
As a group of forensic psychologists with a background in clinical practice and research with offenders, we share the perception that sensitivity to cultural issues is a neglected area in offender rehabilitation. Perhaps this should be stated more strongly: that cultural dimensions of offender rehabilitation programs require urgent attention. We are working to understand how rehabilitation programs can be most appropriately offered to Aboriginal offenders, with a particular interest in programs dealing with anger, aggression and violence (Howells et al, 1997).

Our starting point in this area has been an interest in whether the rehabilitation of offenders works - in the sense of reducing recidivism (see Hollin, 1999; Howells and Day, 1999). Reading the literature gives us grounds for optimism. There is increasing evidence that rehabilitation programs can have a significant impact in reducing rates of reoffending. Rather than assessing whether rehabilitation programs work, our interest is increasingly focused on assessing the characteristics of the most effective programs. In the rehabilitation literature there are three main principles which have been widely endorsed as underlying more effective programs (reference here). In this paper we will explore whether and how these principles might inform our thinking about developing programs for offenders from Indigenous backgrounds.

The Risk Principle (reference) suggests that the offenders who are most likely to reoffend should be targeted for rehabilitation programs. Research has suggested that higher risk offenders benefit the most from programs, while programs have a small or even a negative impact upon lower risk offenders. The second principle - the Needs Principle, suggests that programs should address the known needs of offenders. The cornerstone of the Needs Principle is that the contents and targets of programs should be factors which can be demonstrated to be significant causal influences for offending behaviour itself, in the population being addressed. We prefer the language of functional analysis in this context (Sturmey, 1996). We should direct our attention towards functionally important aspects of the environment and the person. The evidence suggests that rehabilitation programs often do not target areas of demonstrated need (reference). Finally the Responsivity Principle suggests that programs should be designed and delivered in such ways that participants are likely to respond. That is, programs should be adapted to the specific features of the group being offered the rehabilitation program. In this paper we will use these principles to develop an understanding of how anger management or other violence programs can be most appropriately offered to Aboriginal and Torres Strait Islander offenders.

Anger Management and Similar Programs for Offenders

In recent years, anger management programs have become core rehabilitation programs for violent offenders in many parts of the world. The focus of many of these programs is the recognition and monitoring of anger, as well as finding ways to express anger appropriately. Programs such as the Skills Training for Aggression Control program offered in Western Australia and the Anger Management program in South Australia, teach relaxation techniques to deal with high levels of arousal, and focus in detail on the build-up to anger, looking at the cognitions and appraisals that increase aggression. Participants will often be asked to complete an anger diary, detailing instances where they felt angry, to help them learn to identify patterns and triggers to their anger. Later, they may be asked to reflect upon alternative ways of managing the situation. Self-control strategies are taught which combine cognitive self-control methods with ways of reducing physical tension. Often a relapse prevention component is included as a final component of the program.

At present, we know very little about how effective these programs are in reducing offending. Whilst there is reasonably strong evidence to suggest the programs work well in reducing anger problems in community health samples in Europe and North America (reference), there has been relatively little work carried out with violent offenders (Howells, 1998; Watt and Howells, 1999). We are currently involved in an evaluation of the programs offered in South Australia and Western Australia. We know even less about how suitable these programs are for Aboriginal and Torres Strait Islander offenders.
The Risk Principle and Aboriginal Programs

Aboriginal offenders as a group are likely to be at high risk or re-offending (Ferrante et al, 1999). We might expect, therefore, that Aboriginal offenders would be well represented in current programs. We know of no data relevant to the question of whether Aboriginal offenders are offered programs to the extent we would predict from reoffending rates. This issue needs to be addressed in program planning and evaluation.

The Needs Principle and Aboriginal Programs

The Needs Principle has two clear implications for programs with Aboriginal offenders. Firstly, the rehabilitation programs need to be based on the identified needs of Aboriginal offenders. Secondly, we need to address the question whether the criminogenic needs of Aboriginal offenders differ from the needs of non-Aboriginal offenders. For offenders generally, there is a degree of consensus internationally as to common needs that need to be addressed (reference). It is likely, that Aboriginal offenders have important needs which differ from those of other offenders. When describing offender needs, it is important to distinguish between what are termed criminogenic and non-criminogenic needs. Criminogenic needs are factors that are directly related to offending behaviour. We would suggest that prior to developing programs, some assessment has to be made of the criminogenic needs of Aboriginal offenders, both at the population level (for example, what are the needs of Aboriginal offenders in this prison?) and at the individual level (what are the specific needs of this Aboriginal person?). Whilst the criminogenic needs of Aboriginal offenders are likely to overlap with those needs identified in other populations, it is possible that important differences exist. A small number of studies have suggested particular areas of criminogenic need in violent Aboriginal offenders. These include the following:

1. Unemployment

Walker and McDonald's study (1995) reported that amongst Aboriginal people the unemployed were imprisoned at 20 times the rate of the unemployed. Easteal (1993) in a study of homicide found that 79% of Aboriginal homicide perpetrators were unemployed.

2. Alcohol Misuse

Limited research is available on alcohol - violence links in different cultural and ethnic groups. The National Symposium on Alcohol Misuse on Violence in 1994 made the point that the socio-economic position of minorities may be a better guide to alcohol use and alcohol-related violence than culture or ethnicity per se. In Strang's (1993) study of homicides she found that 75% of homicide perpetrators overall were affected by alcohol at the time, but that the percentage for Aboriginal offenders was twice that for the non-Aboriginal. Easteal (1993) found the same pattern for homicides between intimate partners.

3. Domestic Violence

Harding et al (1995) and Easteal (1993) and others have produced some evidence that seems to suggest Aboriginal over-representation is marked for crimes of violence, particularly homicide, to intimate partners.

If these are indeed areas of specific need for Aboriginal offenders, then there is a clear implication that these need areas should be specifically addressed in anger or violence programs. We need to audit our violence programs to see whether this occurs.
Another starting point in finding out about needs is to ask some people who might know. Peter Mals interviewed 14 human services workers in Western Australia all of whom had expertise or experience in working with Aboriginal offenders in correctional settings (Mals et al, 1999). Participants included members of the Aboriginal Policy and Services Division of the Ministry of Justice, an Aboriginal facilitator of Skills Training and Aggression Control Programs, a worker from the Aboriginal Alternative Dispute Resolution Service, an Aboriginal Coordinator of cross-cultural training for the Ministry of Justice, a community corrections officer from a remote rural area with a high proportion of Aboriginal offenders, the Superintendent of a rural prison and the former coordinator of the “Ending Violent Offending” program for Aboriginal offenders.

Each participant was asked for his/her views on how cultural factors might impact upon program content (that is, to identify areas of specific Aboriginal need). Informants identified several areas of difficulty, including:

1. Low Self-esteem and Frustration

Aboriginal informants were in general agreement that Aboriginal male offenders, (especially younger-generation, urban-dwellers) suffered from low self-esteem and a pervasive sense of frustration, anger and powerlessness. A number of informants used the same turn of phrase when commenting on self-esteem: “they feel like they’re nothing”. It was noted that urban males directed their anger and resentment not only toward mainstream society but often also toward their parents, whom they saw as having failed them. Informants saw these emotional problems as arising directly from colonisation, disconnection from the land and a legacy of social and economic marginalisation. It was suggested that male self-esteem had been particularly badly affected because men were finding it increasingly difficult to fulfill the role of family breadwinner, whereas women still had available to them the valued roles of child-carer and homemaker. Some informants noted that the above problems were less marked in remote communities where the men typically had a more secure sense of identity.

2. Attitudes to Violence

Only a few informants commented on the issue of Aboriginal men’s attitudes to violence. It was noted that the forms of violence which are now prevalent depart considerably from that of tradition: under traditional law, violence was subject to group decision-making and was carefully prescribed and regulated; by contrast, present-day violence is a largely spontaneous matter, taking place independent of, and without reference to, any form of group authorisation.

Informants were divided in their views as to whether Aboriginal men were more likely than non-Aboriginal men to subscribe to an ideology of male dominance. Interestingly, Aboriginal commentators were more inclined than their non-Aboriginal counterparts to view Aboriginal men as chauvinistic. They saw this tendency as being, in part, an inheritance from traditional culture, in which men enjoyed higher overall status, even though women had a valued economic role and had considerable authority in circumscribed domains of spiritual life. The comment made by some informants was that, currently, men in remote communities sometimes regard women as property. It was suggested that even among urban and fringe-dwellers, the prevailing attitude among men was that they were entitled to be “in charge.” This attitude was not necessarily accepted by women, who were slowly becoming more influenced by feminist ideas. We need more research in these areas but it is not unreasonable to ask of anger and violence programs whether employment, self-esteem, frustration and attitudes to violence are specifically addressed.
Non-criminogenic Needs

Non-criminogenic needs refer to areas of need (such as mental health problems or housing problems), which, in themselves, may not be causes of offending, but which nevertheless require being addressed. In our work with Aboriginal offenders, we have been struck, as have many others, by the high level of non-criminogenic need in Aboriginal offender groups. Research has shown that mental health problems and distress are prevalent in samples of Aboriginal and Torres Strait Islander (ATSI) peoples. One study by McKendrick et al (1992) reported that over 50% of a sample of 112 randomly selected Aboriginal participants could be described as having a mental disorder, with a further 16% reporting at least 10 nonspecific psychiatric symptoms, including depression and substance abuse.

From the McKendrick sample, 49% had been separated from both parents by the age of 14, and a further 19% from one parent. Those who grew up in their Aboriginal families, learned their Aboriginal identity early in life, and regularly visited their traditional country were significantly less distressed. In another study, Clayer (1991), based on a sample of 530 Aboriginal people in South Australia, reported that 31% had been separated from parents before age 14, and that absence of father and absence of traditional Aboriginal teachings correlated significantly with attempted suicide and mental disorder. Hunter (1994) found that a history of childhood separation from parents is strongly correlated with subsequent problems, including high levels of depression in Aboriginal people seeking primary health services. Hunter comments particularly on the effects on males, whose histories are influenced by the loss of fathers. In these cases, models for, and initiation into, mature manhood are often lacking.

Raphael and Swan (1997) argue that high levels of loss, traumatic and premature mortality and family break-up contribute to the present high levels of stress experienced in ATSI populations. The extended family structures of Aboriginal peoples mean that individuals have more exposure to bereavements, trauma, and loss, than non-Indigenous peoples. It has been argued that these experiences are likely to lead to higher levels of mental health problems, in particular depression and symptoms of post-traumatic stress (Raphael et al 1998). Recent work has focused on both inter-generational (Danieli, 1998), and chronic personal (Herman, 1992) experiences of traumatisation that may cause anxiety disorders. Problems include a wide range of general psychological and somatic symptoms, impact on personality and identity, vulnerability to self-harm, suicide, revictimization and further abuse (Raphael et al 1997).

We would argue that these major non-criminogenic needs are likely to be even higher in offender populations than in the community. For this reason, the rehabilitation of this group of offenders presents a significant challenge to correctional administrators. We agree substantially with the view of Raphael and Swan, who suggested that these problems cannot be adequately understood without taking into account the historical context and social and cultural frameworks in which Aboriginal people live (Raphael and Swan, 1998).

It may be argued by some that the distinction between criminogenic and non-criminogenic needs is invalid or impossible to make. Are factors such as distress, trauma and mental disorder genuinely non-criminogenic? In other countries it is likely such factors are seen as non-criminogenic, or as making only a very modest causal contribution to crime. In our view, a case can be made that some of these needs contribute to aggression and violence. Angry forms of violence are caused and triggered, in part, by exposure to negative life experiences and events and are more likely to occur when the individual is in a negative affective state. Major life stressors also have some role in eliciting angry and violent reactions (Howells, 1998).
A number of important questions arise for those providing rehabilitation programs. Should non-criminogenic needs be addressed in a substantial way? Should they be addressed separately from programs focusing on criminogenic needs or as a component within such programs? Should non-criminogenic needs be addressed prior to tackling criminogenic needs? Is it meaningful to “adapt” existing programs by including a separate component on trauma and history or should, trauma, the relationship with the land, cultural identity and associated issues be dealt with in a substantial way in their own right? We do not profess to know the answer to these questions, although we feel that solutions will emerge from the developing literature on program responsivity. The Black and White program described by David Branson at this conference is a fine example of the sort of program that, arguably, should precede any attempt to tackle specific criminogenic behaviours such as substance misuse.

The Responsivity Principle and Aboriginal Programs

The principle of responsivity has two aspects - firstly responsivity in program design (making programs more sensitive to the needs of participants), and, secondly, responsiveness in program delivery (finding ways to ways to overcome barriers to engagement in therapeutic programs). An obvious way to increase responsivity is for feedback on course content to be actively solicited from Aboriginal participants. This helps to identify parts of the program that need to be made more relevant or more compatible with Aboriginal values, norms and experiences. Mals reports a consensus that program staff should receive cultural awareness education, and be offered ongoing support and advice from experts on Aboriginal cultures.

In terms of selection for programs, attention should be paid to assessing an individual's readiness and motivation to attend, his/her ability to set goals, to reflect on behaviour and to work in a group setting. Mals reported (Mals et al, 1999) that the group he interviewed strongly endorsed the notion that literacy problems are common in Aboriginal offenders in rehabilitation settings. In remote areas illiteracy was said to be virtually universal; among urban-based offenders, gross literacy problems were estimated to occur in 20-25% of those involved in treatment programs. It has been suggested that Aboriginal offenders have a learning style which is different from that of non-Aboriginal Australians (Beresford and Omaji, 1995). It was felt to be vital that program material be presented in a way that does not depend heavily on written information or assignments. Favoured alternatives were videos, non-verbal symbols and role-plays.

Participants recommended that formal didactic input be kept to a minimum and that the bulk of session time be given over to discussion by the group of how the issue raised by the facilitator applied in their own lives. Those who had worked in remote areas urged that abstract verbal concepts or principles expressed in English be minimised and that communication be couched in terms of concrete and personalised scenarios. It was also suggested that communication could be greatly assisted by use of occasional words in the group's predominant Aboriginal language, where this was within the facilitator's capabilities.

Mals' respondents identified several key issues for adapting existing programs to make them more responsive to the needs of aboriginal offenders. The first issue raised was that of whether groups should be segregated (Aboriginal only) or mixed. Segregated groups were seen as having the advantage of allowing for greater specialisation, for discussion of Aboriginal identity issues, and in promoting a safer environment for self-disclosure. On the other hand, they were viewed as difficult to organise (finding homogenous groups who speak the same language from similar backgrounds eg. rural Vs remote), and concerns were expressed about singling out Aboriginal offenders, and difficulties of group members knowing each other (eg. family feuds or kinship connections).
A related issue was whether it was desirable for program facilitators to be Aboriginal. Aboriginal facilitators were felt to be better able to adapt program content, to be more readily accepted by participants and to be less likely to judge participants negatively. However, problems may arise if the facilitator were part of the same community as the offenders or their victims.

Those interviewed by Mals felt strongly that a prison-based program would not be effective on its own, divorced from the broader community. Informants were adamant that maintenance of behaviour change would depend on ongoing treatment/guidance as the offender attempted to reintegrate into his community. It was urged that post-release follow-up should actively involve key members of the offender’s extended family, in view of the importance of family ties among Aboriginal people. It was noted, for example, that in the typical domestic violence situation other members of the family would be directly involved and might therefore play key roles in the perpetuation or resolution of the conflict. In some remote communities a system of mentoring was still in place for younger men. Treatment-providers should therefore seek to link in with this traditional rehabilitative process at the release-planning stage.

Summary and Conclusions

In this paper we have explored whether the well recognised and familiar rehabilitation principles of Risk, Need and Responsivity are useful starting points for good practice in developing rehabilitation programs for Aboriginal offenders. It seems to us that the principles do suggest practical rehabilitation strategies. Adoption of these strategies is likely to improve rehabilitation outcomes.

Finally, the Risk/Needs/Responsivity framework also requires an empirical, research-based approach to rehabilitation. It is clear that we still lack basic knowledge and information about what the needs of this group of offenders are and how best they can be remedied.

References


WORKING WITH THE COMMUNITY: STREET-LEVEL STRATEGIES FOR DIFFICULT ISSUES

Dr Leo Keliher
Commissioner, NSW Department of Corrective Services

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
The topic which I will address this morning relates to incarceration - diversion from and alternatives to incarceration - and the problems of alcohol and other drug abuse amongst indigenous people. I will talk about some of the interventions which we have devised and are using in these areas. Their effectiveness - the extent to which they represent “best practice” - can only be seen over time. My paper will look in some detail at the work carried out across the Department with particular emphasis on programs and services offered to enable the successful transition from custody to community. This approach critically involves the Probation and Parole Service. With over 70 offices across NSW, Probation and Parole operates out in the community. They know at first hand the value of interventions both from within and without the correctional system.

Let me say at the outset that for offenders from all backgrounds - male and female, young and old, indigenous and non-indigenous - alcohol and other drugs seem inextricably linked to antisocial behaviour, criminality and incarceration.

As with so much in corrections, we are never far removed from the paradoxical situation whereby teams of correctional officers, health professionals, program managers and co-ordinators strive to remove from the correctional system people who seem equally determined to remain there. With about two thirds of inmates having served time before, recidivism is fact not fiction and time, patience and resources are needed to change this situation.

In June of this year, there were around 4.8 million people in NSW over the age of 17. Of these, about 61,000 identified as being of Aboriginal and Torres Strait Islander descent. That translates to about 1.3% of the adult NSW population.

We have at the moment about 7,300 inmates in full time custody in NSW. Of this number, over 1,100 - about 16% - identify as being of Aboriginal or Torres Strait Islander descent. What this means is that Aborigines or Torres Strait Islanders in NSW are 13 times more likely to be incarcerated than people who are not Aborigines or Torres Strait Islanders.

In South Australia, this imbalance rises to almost 15 times, while in Western Australia, Aborigines or Torres Strait Islanders are 22 times more likely to be gaol ed.

The “over-representation rate” in NSW is just slightly higher than the national average. Even in Tasmania, where the rate of disadvantage is the least pronounced of any of the nation’s states, persons of Aboriginal/Torres Strait Islander descent are five time more likely to be gaol ed than people who not within that sub-group.

The problem of an imbalance in indigenous incarceration is not, of course, unique to NSW or Australia. To refer to only two other countries with which my Department’s officers have regular contact, the Canadian and New Zealand correctional systems both involve high rates of incarceration of indigenous inmates. In New Zealand, I am told, over 50% of inmates identify as Maori.

Already at this Conference, delegates have heard from several speakers from NSW. Joanne Selfe, Director of our Indigenous Services Unit, has given an overview of the highly innovative Girawaa Creative Work Centre at Bathurst Correctional Centre; Regional Commander Ken Middlebrook has spoken about our mobile work camps and our Second Chance Program.
Yesterday, Greg Telford from the NSW Department of Community Services spoke about the co-ordinated, co-operative services to Aboriginal families which he oversees in northern NSW. Greg works closely with our Probation and Parole Service in Lismore and is partly funded by my Department. Earlier this morning, Luke Grant, Acting Director of our Inmate Classification and Programs, demonstrated the CD ROM which outlines our case management program. This is an interactive tool for use by all persons dealing professionally with inmates. Later today you will hear Les Bursill talk about indigenous health issues, particularly a program addressing AOD problems and preventing the transmission of disease.

With about 7,300 inmates, NSW accounts for over a third of the national prison population. This is in keeping with our state’s population and does not indicate any rampant, uncontrollable criminality amongst NSW residents. With 148 inmates per 100,000 of the adult population, NSW is just slightly above the national average of 143 per 100,000.

Alcohol and other drug abuse is so fundamental to the culture of crime and incarceration that it is useful at this point to look briefly at some of the systemic interventions practised by the NSW Department of Corrective Services, even if they don’t appear immediately drug-related.

We have established Aboriginal Inmate Committees in gaols with a significant Aboriginal population and have developed a mentor training program, which has been granted TAFE accreditation for both basic education and HIV and Health Promotion programs. This program assists inmate representatives to induct new inmates into the correctional system and provide them with information about welfare, health, drug and alcohol issues and legal matters.

We have created five full-time Aboriginal teaching positions to provide culturally appropriate education focussed on numeracy and literacy.

In 1994, we established a dedicated drug and alcohol service comprising an Aboriginal coordinator and six Aboriginal support staff delivering specially designed Alcohol and Other Drugs (AOD) programs. We also have three regular, dedicated HIV and Hepatitis C specialist trainers, developing and delivering programs out in the gaols. Their aim is to “keep the blood strong” and you will hear more of this from Les Bursill, the Co-ordinator of Aboriginal AOD Programs, shortly.

We set up a specific Aboriginal post-release program where project officers at Bathurst, Grafton, Dubbo, the Hunter and Parramatta provide support, guidance, counselling, assessment and referral services to Aboriginal inmates working with them prior to release and maintaining contact and follow-up post release.

We appointed a Director of Indigenous Services at a senior level with a specialised policy unit. Joanne Selfe, the Director of that unit, addressed you on the first day of this Conference on the development of creative work programs for indigenous inmates integrating art, craft, small business development and basic education.

The Department aims to give focus to these various initiatives, all of which in tackling basic health, education, and identity issues, address the underlying cause of alcohol and other drug use and to develop coherent new directions with the greater involvement of Aboriginal communities.
Four years ago we launched our initial Indigenous Offenders Action Plan. It was compiled by the Department’s Director of Indigenous Services with extensive consultation with senior Departmental staff and key representatives of the Aboriginal community.

Five key issues were identified in the Plan:

1. The involvement of indigenous people in the planning and implementation of the Department of Corrective Services policy, services and programs
2. The reduction of the rate of imprisonment of indigenous people and where possible, diversion of indigenous offenders from the criminal justice system
3. An increase in the representation of indigenous staff in the Department of Corrective Services
4. The raising of awareness among all staff concerning indigenous culture matters which are necessary to effective interaction with indigenous people, and to eliminate discriminatory and racist behaviour
5. Meeting the special needs of indigenous offenders

In 1998 funding was provided by the Government to continue the programs developed and to establish major initiatives involving specific involvement with the community.

There are a number of far-reaching reforms in this three year Indigenous Offenders Action Plan. Some of these have been described in detail by earlier speakers from NSW. Let me just touch upon them here.

In 1998, Corrective Services Minister Bob Debus launched a Cultural Link Program using a Mobile Camp operating out of Broken Hill Correctional Centre. It enables up to 12 minimum security indigenous inmates to work on culturally significant projects in the Mutawintji and Kinchega National Parks, which have just been handed back to their traditional owners.

A similar program has been established at Ivanhoe where a new minimum security work centre, “Warakirri” has recently been opened by NSW Premier, Bob Carr. This centre gives inmates from the far west, particularly those of Aboriginal descent, the opportunity to develop new skills. These inmates are involved with ground and building maintenance and community works in Ivanhoe and the surrounding district.

The establishment of “culture camps” for Aboriginal offenders is also being explored, following examples such as the marked success in reducing offending among Maori people by reintroducing urban Maoris to their own culture. Indigenous women inmates from several of our gaols have already participated in camps run at Glenbawn Dam and at Goodooga, with great success. I want to return to these camps shortly.

Bathurst Gaol is pioneering a scheme to develop artistic and employment skills for indigenous inmates. The new Girrawaa Creative Work Centre, (already mentioned by Joanne Selfe) which opened last year, employs minimum security inmates producing art and crafts for sale to the public. The program provides an integrated range of opportunities for indigenous offenders. In addition to a range of creative and technical endeavours, including painting, carving, woodworking and photography, inmates are taught marketing and business management skills which would help them to make a living from their artistic endeavours on release.
The Second Chance centre, “Yetta Dhinnakaal”, will operate on a 10,000 hectare property near Brewarrina, in far western NSW. This centre will primarily cater for young, first time in gaol Aboriginal inmates and will provide an opportunity to learn rural work and land management skills within a culturally appropriate land based program emphasising input from Aboriginal elders and the local community.

We are also undertaking more limited, but important, reforms such as the appointment of Aboriginal Official Visitors - covering regional and metropolitan gaols.

We are increasing the proportion of Aboriginal staff. Approximately 1.5% of staff identify as Aboriginal or Torres Strait Islander. The Department’s EEO Strategic Plan has set a target of 2% by the year 2000. To help achieve this, the Department is conducting career days, targeting indigenous communities, and for the first time is taking correctional officer entrance exams out to regional communities.

We are increasing the involvement of indigenous organisations as program providers. We are also expanding periodic detention to areas with high Aboriginal inmate populations, such as Tamworth, Broken Hill and Bathurst.

Let me now turn my attention to women’s issues. If great numbers of men in gaol - Aboriginal or not - are there for alcohol and other drug-related reasons, this is all the more true for women. Figures are now showing the incarceration of women is increasing at an alarming rate - and almost all of them are there for issues that go back in one way or another to alcohol or other drugs.

Earlier I mentioned the concept of cultural camps, and Joanne Selfe touched upon this in her address to you. These camps have been operating in one form or another for some years now. The most ambitious of them is an intensive residential program at the “Mercy Camp” which is an Aboriginal program held at an Aboriginal owned property at Goodooga, 76km from Lightning Ridge.

These camps are designed to give Aboriginal women inmates an understanding of their Aboriginal Culture using this identification and bond to counter AOD abuse. The camp recognises the need to teach Aboriginal women who come from different communities - such as tribal, urban, rural and remote areas - that they all have a strong common bond, and that they will share many similar experiences. Also, the camps instruct participating correctional staff in cultural awareness with reference to Aboriginal and Torres Strait Islander inmates.

The aims of the camp include:

- To teach participants that no matter what colour the skin, eyes, and hair is, they are Aboriginal, and will be accepted by the Aboriginal communities;
- Learning responsibilities and respecting the Elders in the communities;
- Accessing the knowledge of the special healing ways that have been handed down from generations to generations;
- Helping with assistance to Elders to enable them to be more involved in telling stories and teaching young people about their culture;
• Developing respect for themselves and others in caring and sharing;
• Identifying issues that have led to the destruction of traditional Aboriginal culture;
• Learning to utilise organisations so that the chance of re-offending would cease;
• Most importantly, to learn the traditional ways of the old people, and to let them experience the culture that is still alive and working within the Aboriginal communities;
• Finally, to learn that the word "Aboriginal" should not be used as a fighting tool.

By taking these Aboriginal women on a Cultural Awareness camp it is envisaged that the knowledge they learn on the camp will lead to further their learning with Aboriginal programs that are already implemented in our correctional centres.

Aboriginal women in our centres are generally less willing to take advantage of programs offered than male inmates so a primary aim of the cultural camps has been to link women inmates with programs within their own gaols as relevant to them and beyond the correctional system into the community.

What are the effects of the camps? Their organisers tell me that these camps - with the normal lacks of comfort and privacy that you’d expect - tend to break down barriers between officers and inmates. Significantly, the camps have turned the tables for many women. They see that their culture is not dead or irrelevant - that it means something. Many of the inmates are significantly different once they have returned from the camps - greater participation in programs, increased trust and co-operation with staff and taking a leadership role with other inmates.

Very importantly, the camp organisers - Aboriginal Welfare Officer Vivian Scott and Pat Maurer - our Metropolitan Regional Aboriginal Project Officer - tell me that for many of the women, this is their first real contact with their own Aboriginality. They learn a great deal about history and identity, and the camps have a marked impact on their self-esteem. And another thing too. These camps aim to address conflict and lack of respect between Aboriginal and non-Aboriginal peoples. If Aboriginals are making racist comments, they could well be making them about people in their own families. Respect is an important lesson from these cultural camps.

I would now like to refer in more detail to the work being carried out in the area of drug and alcohol interventions in northern NSW.

Yesterday afternoon, we heard a paper from Greg Telford, an officer with the NSW Department of Community Services in Lismore, in the north-east of NSW. The work that Greg described is an excellent example of what can happen when government agencies work together.
I am happy to tell you here that this project - the Support of Aboriginal Families Project - has been nominated for a 1999 NSW Premier's Public Sector Award. It has been entered in the category of services to regional areas and one of the most outstanding features of the project is the wide network of support groups and agencies which it encompasses. The list is impressive and includes:

- The Probation and Parole Service of the NSW Department of Corrective Services;
- The Lismore Community Service Centre operated by the Department of Community Services; the NSW Health Department, specifically its divisions of Drug and Alcohol, Aboriginal Health, Mental Health, Women's Health and Child and Family Health;
- The Grafton Correctional Centre;
- The Lismore Police and Lismore Police Citizen’s Youth Centre;
- The NSW Department of Housing;
- CentreLink;
- TAFE;
- Skillshare and the Community Development Employment Program;
- ATSIC;
- The Aboriginal Intensive Family Based Service;
- Namatjira Haven;
- The Lismore and Grafton Women’s Refuges;
- Women Up North;
- The Aboriginal Legal Service;
- Local solicitors in Lismore and area;
- The Lismore Magistrate;
- Inter-Relate;
- FSS Lismore;
- Southern Cross University;
- The Tabulam Community Meetings; and
- The Lismore Neighbourhood Centre.
Clearly, this project extends well into the community, and not only as a result of the many agencies involved with it. Referrals to it are made by either the Probation and Parole Service or by the Department of Community Services. It targets Aboriginal families from the Lismore area who meet these criteria:

- A family member is under the supervision of the Probation and Parole Service;
- A family member is experiencing or perpetrating violence and wants to address the issue;
- A family member is experiencing alcohol and/or other drug abuse and wants to address the issue;
- The children in the family are experiencing, or have experienced, serious abuse or neglect.

In his letter of support for the project to the Premier’s Department, our Regional Director of Probation and Parole in Northern NSW, Phil Ruse, said that the most common expectations associated with this project - supporting families in the north of NSW - “were around ‘doing it differently’, ‘doing it in a way that is culturally appropriate for Aborigines.’” “The project,” Phil wrote, “was seen ideally as being part of a range of services for people who are outside the assistance of the usual service providers and who ‘get recycled between gaol and various departments with little resulting change.’”

The challenge, therefore, for this particular project, is in achieving change - in interventions.

Some of the expectations were more focused on how this change could be effected. People interviewed after being on the program said that this project was an opportunity to do things differently, “to break the cycle of failure of intervention” with the target group by having a holistic approach to the wide range of issues, problems and challenges that people in the target group had to address.

Phil Ruse found that their expectations were that the project would reach out in a way so that Aboriginal men would have a safe place to talk about the crises in their lives, crises which have lead to their involvement with the criminal justice system. One person, he found, raised the need to empower men who have been the victims of paedophiles (often white men) to speak out against that.

There were expectations that in time there would be tangible spin-offs, like a reduction in the amount of violence against women in the Aboriginal community. On a more concrete level, there was the expectation that the various parts of the project would be merged together so that Greg Telford would have the time and opportunity to follow up with the men after the group by doing home visits. This would enable him to address relationship issues with them and their partners or by seeing them privately to explore further painful issues which were raised by them in the group setting.

Summarising how the expectations were met, Phil Ruse found similar positive sentiments to those you heard yesterday from Greg Telford himself: “Yes, up till now there was nothing for Aboriginal men.” “Yes, it is a good thing. It is filling that void where Aboriginal men have been crying out for help too, and where gaol is certainly not the answer.”
A key player in the ongoing success of this project has been an Aboriginal man named Tim Mathews and I want now to tell you a little about Tim and what he is achieving.

Tim is now in his early 40s. I first met him when he was nearing the completion of a sentence at our minimum security correctional centre at Glen Innes in the north of NSW. Tim had his first brush with the law when he was a young teenager. From that time, around 1975, until February this year, he spent much of his time in gaol. His offences have involved armed robberies and his last sentence was for nine years.

Over several conversations with Tim, I got to understand his background and his story is typical of that of many Aboriginal offenders. I am talking about him here to you with his permission in the hope that his present lifestyle can be seen as a successful intervention.

Tim was adopted out of his own family as a baby and underwent a lot of mental and physical abuse as a youngster in a family situation where he never really belonged. He grew up in the far west of Sydney which he recalls as very wild in the early 70s.

When he was 13 his real mother died and he was not allowed to go to the funeral. His alienation from his own people led to his confusion and delinquent behaviour. So did the fact that all mates were much older and used him as a puppet. He spent time in many juvenile detention centres and - as if on cue - entered the adult correctional system at age 18. His first gaol was the ancient edifice at Parramatta.

Peer pressure and overall alienation led Tim into alcohol, drugs and crime. He credits the NSW Department's therapeutic program in the Special Care Unit within the Malabar Special Programs Centre at Long Bay Correctional Complex, with helping him get away from crime.

As Tim has grown older, he has involved himself with a number of programs within gaols and with outreach programs as his classification has allowed this. From Glen Innes, he was able to go out into local primary and high schools and talk to children about the issues that led to his own incarceration. He told me: “I talked to kids of all ages, and was very anxious to hear their own problems. They talked to me about alienation - through their skin colour or through other personal characteristics. These were very productive sessions.”

In doing this work, Tim was greatly assisted by the Drug and Alcohol Counsellor from the Glen Innes Centre. “If this kind of intervention had been available for me when I was a kid, I think I might have lived a very different life,” Tim now says.

In February of this year, Tim was released on parole and made a point of moving to an area where his old friends would not influence him. He was very keen to stay away from gaol - and he actually did something positive about this. Early on in this new life he went along to a Men’s Group meeting in Lismore with Greg Telford. Tim says now that his own life story was seen as valuable by his peers. He says that the time he had spent encouraging school kids has fitted him well to talk to people of all ages. As a result, Tim was eventually offered a traineeship with Greg Telford and now works as an Aboriginal family support worker with the Families Project.

This is a 12 month traineeship which Tim hopes will lead to a more permanent situation in the family welfare arena.
Now, as a trainee under Greg's tutelage, Tim is again out in schools talking to kids. "I am trying to get young people to realise that they are accountable for their behaviour," he told me. "They must realise that their actions have consequences and they must think through to the results of the behaviour."

Tim and Greg are working in an area of great need. Tim says that there are kids on the streets of Lismore who are drunk by 11 in the morning. Their work extends to people of all ages, men and women. Tim still attends men's group meetings and talks through his frequent frustrations and problems with other men.

Tim says that he can always think of new needs, new programs. "If we had a halfway house," he says, "away from the towns and the bad influences, people coming out of gaols would have an easier time adjusting to their release."

If the work that Greg Telford and Tim Mathews are doing is "family focussed", it has great relevance to the men with whom they deal. If violence is happening in a home, it is most likely to be coming from the men. As Greg has said: Fix the men - and the women benefit. Fix the women - and the children benefit. Fix the kids - the family benefits. Fix the family - and society benefits.

Education and vocational training are a key intervention in the area of drug and alcohol abuse. By developing work related skills and experiencing employment, inmates are given increased opportunities to manage their lives without alcohol and/or other drugs. It is very pleasing, then, to see that at Bathurst Correctional Centre - a large gaol which accommodates Aboriginal males from the western half of NSW, over 50% of inmates enrolled in our education classes are of Aboriginal or Torres Strait Islander descent. At Tamworth it is just over 50% and at Parramatta Gaol in suburban Sydney the rate is almost 40%. Through our education provider, the Adult Education and Vocational Training Institute (AEVTI) and NSW TAFE, we offer these inmates dedicated Aboriginal courses, provided by local TAFE colleges, in areas such as Aboriginal art, Aboriginal cultural practices, community mentoring and education and employment options.

It is clear from the examples I am quoting - and from what other people are saying at this Conference - that problems such as those associated with problem use of drugs and alcohol need multifaceted approaches. This is as true for indigenous people as it is for non-indigenous people like myself whose families have only been here a century or two.

The northern region of NSW around the towns of Kempsey and Taree, areas with large Aboriginal communities, is the subject of a project which is being developed under the overall guidance of the NSW Premier's Department. In the "Kempsey Economic Renewal Project" and the "Taree Project", problems relating to law and order - and drug and alcohol abuse amongst any sections of the community - are still quite a way from being analysed. However, this is an attempt by the NSW Government to address - and redress - the problems of this particular region north of Sydney and my department will be playing an important role in ensuring that this project is more than just policy statements, white papers and promises.

I'll finish this paper by venturing dangerously close to my state of origin, Queensland. Let me refer to what is happening in Toomelah, a NSW mission settlement 15 km from the Queensland border, way out beyond Moree. Toomelah is made up of about twenty houses, so - at most - it's a faint name on the map. Our Probation and Parole Service in Moree is
involved in a project in Toomelah which has only been going a couple of months. It is a drug and alcohol program, developed in response to community requests - so it got off to a good start. Our people up there are working with a broad spectrum of service providers - the Department of Health, Moree refuge workers, the Community Development Employment Program as well as folk from Care Goondiwindi. The course lasts for twelve weeks and there are five participants in this first intake. Our manager in Moree reports how happy his officers are with the reaction to the program. “The attendance rate is almost perfect,” he tells me, “and this is quite unusual in this area.”

If, in these far-flung corners of NSW, for example, our Probation and Parole officers see that they will do the job better working alongside people from the Health Department, or people from Housing, or the folk from CentreLink, they know they must seek ways for this to happen. Similarly, the development of the Second Chance/Right Pathway program at Brewarrina is focussed on the establishment of partnerships - with community elders, the Far West Area Health Service, and the Rural Aboriginal Training Program at Yanko College. Such initiatives are seen as the way forward in addressing the complex cultural, social justice and health issues which underly the alcohol and/or other drug programs damaging the Aboriginal population. Territorial barriers between divergent government responsibilities - barriers which themselves are often relies from British colonial days - must not prevent the vital work of today and tomorrow from being done.

The final message in my presentation today has to be this: the NSW Department of Corrective Services is giving effect to a co-ordinated, broad range of programs in many areas of the unhappy relationship between indigenous Australians and the criminal justice system of this country. We are working wherever we can with the community and other agencies and - most importantly - we are out there, delivering programs where they really count: where the problems actually are.
ABORIGINAL COMMUNITY SUPERVISION AGREEMENTS IN WESTERN AUSTRALIA

Frank Parriman
Community Based Services, Broome, WA

David Daley
Community Based Services, Perth, WA

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Background

Very little use was made of community based sentencing options in remote country areas of Western Australia before the late 1980's. Because of the State's small population and its dispersal over a very large area, the establishment of regional offices of Community Based Services has only been completed in the past decade. In areas such as the Kimberley, Pilbara and the Eastern Goldfields/Central Desert, it is still possible to reside many hundreds of kilometres from the nearest office. This has made it very difficult until quite recently to convince Courts about the utility of community based supervision orders in remote areas, and the evolution of the Aboriginal Community Supervision Agreement process must be understood against that background.

For many years, such supervision as was available in remote areas was carried out by Honorary Probation and Parole Officers when it was possible to recruit them. Their training was minimal and in most small towns, the small pool of active community volunteers was already heavily involved in other community activities. There was no concept of the need for culturally-adapted supervision programs or special training to deal with Aboriginal offenders. Some Aboriginal honorary staff were appointed for their local knowledge and skills, but they were not generally well supported. Courts often took the view that community based supervision was not a realistic option and fines recovery would be uncertain because of the unfavourable financial circumstances of most offenders. Imprisonment was thus often the sentence of choice, even for non-violent offenders.

In the 1980's it became increasingly difficult to find suitable honorary staff and there was a trend towards recruitment of paid sessional staff. In Aboriginal communities this did not work particularly well. In some cases, the payment of selected individuals caused problems for other community residents who received no form of paid income (except possibly for CDEP). More significantly, from time to time the paid sessional supervisor's services could not be used because of a skin group relationship to an offender. Reliance on a sole sessional supervisor in a community was therefore fraught with difficulties.

In January 1993, a form of contractual agreement with Aboriginal offenders was introduced under which participating Aboriginal communities manage the supervision of offenders resident in those communities. The timing of this initiative was in part a response to the findings of the Royal Commission into Aboriginal Deaths in Custody, but it was equally a result of the continuing search for more effective methods of managing Aboriginal offenders in the community.

The Aboriginal Community Supervision Agreement represents a breakthrough in the supervision of Aboriginal offenders in remote communities. The scheme does not operate in Perth or other larger urban centres and would be unlikely to work in those settings. This partly reflects the strong affiliation of many remote-area Aboriginal people with particular communities, and the very different patterns of offender mobility which apply in urban areas.
The Objectives of the Community Supervision Agreement

The Community Supervision Agreement provides the framework for the supervision of offenders in participating communities. At the same time it seeks to achieve the following policy objectives.

• It offers communities a key role in the decision making process about offender management. The community itself decides whether it will accept an offender under supervision, determines who is the most appropriate person to administer the supervision order, and it exercises considerable discretion in determining the supervision regime.

• It encourages the Courts to make greater use of community based sentencing options by providing a credible system of management for offenders who do not pose a major risk to the community.

• It aims to increase public confidence in the administration of justice by enhancing the rate at which community supervision orders are successfully completed.

How does it work in practice?

The essence of the Aboriginal Community Supervision Agreement is its simplicity. It sets out the obligations of the parties as concisely and straightforwardly as possible, recognising that many Aboriginal communities do not have ready access to legal advice. Copies of the Agreement are available for distribution to those who are interested.

The Community Council of each participating community undertakes to:

• Ensure that each offender reports to the supervising officer who it nominates as directed;
• Ensure that community work obligations are met;
• Maintain such records as may be required;
• Assist offenders as appropriate with advice, supervision or referral to other agencies;
• Monitor compliance with all conditions of the supervision order;
• Notify the assigned Community Corrections Officer about matters pertinent to the management of the order; and
• Advise of any non-compliance with conditions.

For its part, the Ministry of Justice undertakes to:

• Consult with the community before placing any offender there;
• Make appropriate transport arrangements to get the offender to the community from the place of sentence;
• Provide training so that the offender can be supervised to an acceptable standard;
• Monitor the progress of offenders at regular intervals;
• Provide such service as may be sought by the community from time to time; and
• Remunerate the Council for its services at the rate agreed.
Most communities that sign Community Supervision Agreements have had some prior measure of contact with Community Corrections Officers and some basic understanding of what is involved in supervision. The inclusion of new communities is not only dictated by availability of departmental support resources but also by the community’s readiness to take on the responsibilities.

Rates of payment to the community are subject to negotiation and are set out in a Schedule to the Agreement. There is considerable flexibility in how the payments are structured according to what best meets the needs of the case. For example, a community might not seek regular payments for the supervision of an individual but might ask instead for a grant to cover the cost of work clothing, tools and machinery, or riding equipment. Community Based Services Managers have broad discretion in negotiating the terms of the agreement. There are safeguards against being too generous. The payments must be serviceable within the branch’s budget allocation, and if a community strikes a rate which is above what other communities receive, managers must be mindful of the pressure for across the board upward movement of the payment rates.

**Critical Success Factors**

Not all communities are suitable for involvement in the scheme. It is important that they have a reasonably stable and settled community management structure. The program can be easily undermined if the community is too volatile. On the other hand it has to be recognised that some communities go through cyclical phases of stability and volatility. In some cases it has been necessary to withdraw from participating communities during periods of dis-equilibrium or change in the internal power structure and to re-enter once the community has consolidated again. For this reason, the Agreement needs to be highly flexible, allowing either side to terminate at relatively short notice. Article 12 provides for termination by either party with one week’s notice.

Another critical success factor is the ability of the regional Community Corrections Centre to provide sufficient training and support to participating communities. It is essential that there are enough trained community supervisors to ensure that there is an element of choice, especially in cases where a skin group relationship would make a potential supervisor inappropriate.

Community Corrections Officers need to be visible in the communities, necessitating regular visits to provide encouragement and support and to work through difficulties as they arise. There is no substitute for continuity of contact in building trust and respect with the community. Conversely, where support mechanisms have lapsed for whatever reason, it can be exceedingly difficult to recover lost ground. If it is not possible to guarantee regular support, then the feasibility of entering an Agreement needs to be carefully considered.

Finally, the Agreement explicitly states that it does not confer on a Community Council any rights or obligations other than those created by the Agreement. This is important in making it clear that the Agreement can not be used to validate or enforce forms of behavioural control on community members other than those specified in the document itself.
Further Applications Arising from the Aboriginal Community Supervision Agreement Concept

Over time, the Community Supervision Agreement scheme has opened a number of doors that would otherwise have been much more difficult to envisage.

- It can be an effective way of educating communities about the criminal justice system. Each time a new sessional supervisor is appointed and trained in the communities it raises the level of understanding of how the whole system works.

- It fulfils a vital role in empowering Aboriginal communities because it hands back responsibility for much of the key decision making to the communities themselves and develops their confidence to tackle problems of offending locally.

- It offers a mechanism whereby supervised bail can become a more feasible option in remote areas. This has the valuable potential to reduce the rate at which Aboriginal defendants in remote areas are held in custodial remand.

- It provides a structure for the extension of juvenile justice diversionary processes to remote areas. In Western Australia, the management of juvenile offenders in the community is carried out by the Community Based Services Directorate, which also manages adult offenders under community based orders. Although most other States has not adopted this model, it does afford some advantages in providing a common framework for working with Aboriginal communities. The Juvenile Justice Team conference process can work very well for young Aboriginal people when linked to the Community Supervision Agreement scheme.

- It can be a catalyst for working with the communities on other local community social justice issues. There has been an increasing recognition by Community Corrections Officers that managing offenders in communities does not of itself cause underlying problems to be solved, or to go away. The mutual trust and confidence that has come from working together through the Agreement process has been an entrée to new areas of service, often involving the participation of other agencies, who can bring in needed skills and experience outside the scope of Community Corrections Officers.

- It has dramatically improved the rate at which Aboriginal people successfully complete some orders. There is a substantial disparity in Western Australia between the rates at which Aboriginal offenders complete supervision orders in comparison to success rates for non-Aboriginal offenders. Much of this has to do with the fact that the concept of supervision embodied in legislation can be quite alien to the experience and culture of minority groups with a different heritage. In the Kimberley region of Western Australia, where the largest single number of Community Supervision Agreements operate, the home detention program has a success rate exceeding 80%. Although there is still a long way to go to make community supervision more accessible and meaningful to Aboriginal offenders, even the modest successes recorded could not have been achieved without a culturally appropriate and regionally specific process.

The Community Supervision Agreement scheme could be adapted to the needs and circumstances of virtually any minority group. A visiting United States commentator in 1995 remarked that in his own densely populated community, there were many recent arrivals from both Eastern Europe and the Caribbean. These communities were considered difficult for outsiders to penetrate and standard methods of probation and parole supervision did not work especially well. The view was expressed that a variation of the Community Supervision program might well work, since it involves key community figures in the management of their own people according to supervision methods that they largely determine for themselves.
Formal Evaluation

A good deal of the evidence about the effects of the Aboriginal Community Supervision Agreement is admittedly subjective. In 1998 an evaluation feasibility study showed up some obstacles to carrying out a full evaluation. Many of these relate to the formidable difficulties of examining a program that has evolved in many different ways according to unique regional and cultural characteristics. The sheer size of Western Australia also made it impractical for an evaluation team to visit most communities. Even if they had been able to do so, the communities tend to be reserved about dealing with people whom they do not know and the time needed to establish such relationships poses a real barrier for time-limited researchers.

Despite the difficulties, a review of the program is currently being undertaken. Its focus has partly been on the credibility of the scheme with members of the judiciary and the extent to which it has made an impact on sentencing attitudes and practices. The evidence shows that most judicial officers interviewed consider it a credible way of dealing with Aboriginal offenders in remote areas, with this level of confidence extending as far as the Supreme Court. The level of support is reflected in the fact that on at least eight known occasions, the Supreme Court has used the scheme as an alternative to prison for serious offences, when there were special circumstances.

The report of the review of the Aboriginal Community Supervision Agreement will be made publicly available upon completion and is likely to be accessible through the Internet before the end of the year. It might lack something in terms of pure research methodology, but it should help to stimulate new ways of thinking about what best practice intervention actually means in relation to Aboriginal offenders in remote areas.

Anyone with an interest in pursuing this matter further is invited to contact the Broome office of Community Based Services. Interstate visitors are particularly welcome to come and make their own judgments from direct observation. Hopefully, this can contribute to opening a dialogue through which we learn from each other.
ABORIGINAL VISITORS SCHEME

Phil Prosser
Ministry of Justice, WA

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Introduction

On the 15 October 1987 the Commonwealth Government is association with the States established a Royal commission into Aboriginal Deaths in Custody in Australia. This followed growing concern about the numbers of Aboriginal deaths in custody and their apparent increasing rate. (Extract of WA Interim Inquiry into Aboriginal Deaths in Custody).

On 19 November 1987 the Royal Commissioner, the late Mr. Justice Muirhead advised that it had become apparent the Royal Commission would take much longer that at first thought to complete its inquiries. He exhorted the States not to merely wait for the conclusion of the royal commission but to take steps forthwith to stop further cell deaths. (The West Australian 20/11/1987 p.2)

On 20 November 1987 the former Western Australian Minister for Aboriginal Affairs announced that in association the Minister for Corrective Services and Minister for Police, a state interim inquiry into Aboriginal deaths in custody would be convened in response to the remarks of the Royal Commissioner. (Extracts of WA Interim Inquiry into Aboriginal Deaths in Custody).

Methodology

The terms of reference required the inquiry to consider the material currently available concerning the deaths in custody of Aboriginal people in Western Australia since 1 January 1980 and to report to the Hon. Ministers by 21 January 1988.

It was important to ensure that any recommendations of the inquiry were soundly based and were formulated with the benefit of consultation with relevant organisations and in particular with Aboriginal groups. Given the limited time frame, the extent of the inquiry's consultation was not as wide ranging, as its members would have wished. Members of the Inquiry met with representatives of the State Aboriginal Advisory council, the Aboriginal Medical Service and the former special government Committee of Aboriginal/Police and Community Relations. Discussions were also held with Australian Institute of criminology at that time. (Extracts of WA Interim Inquiry into Aboriginal Deaths in Custody).

Background

In response to recommendation twenty (20) of the Western Australian Interim Inquiry into Aboriginal Deaths in Custody, which reads as follows,

"Consistent with the effective management of Prison ad Police lockups an Aboriginal Visitor Scheme should be developed and Implemented"

The Aboriginal Visitors Scheme was established and introduced as a pilot program in the Goldfields town of Kalgoorlie in July 1988. Due to the success of this initiative, the program was expanded to service other selected prisons and lockups. Today prisons and selected lockups in WA are serviced by the Aboriginal Visitors Scheme (AVS).

The Aboriginal Visitors Scheme was originally coordinated by the Aboriginal Affairs planning authority (AAPA) (now the Aboriginal Affairs Department) before being transferred to the Ministry of Justice in March 1994. Although administered by the Ministry, the Aboriginal Visitors Scheme has been able to retain its autonomy and confidentiality in providing an independent support service for indigenous people in custody.
The responsibility for the AVS rests jointly with the Attorney General, the Minister for Police and Minister for Aboriginal Affairs.

Objectives

The aims and objective of the Scheme is to provide a means of reducing, the likelihood of Aboriginal deaths in custody, through the implementation of a community orientated service provided by Aboriginal Visitors who would assist in ensuring:

- Culturally appropriate counseling is provided to Aboriginal detainees or prisoners who may or may not be in a distressed agitated state.
- Aboriginal detainees and prisoners are given adequate support and referral service.
- The Aboriginal Community is satisfied that detainees and prisoners are treated in a fair and humane manner whilst incarcerated.

Employment and Recruitment

Currently the AVS employs (5) permanent officers and manages approximately forty-five (45) community people as Visitors. Aboriginality as part of the criteria for appointment as an Aboriginal Visitor, is essential to the scheme.

Visitors are recruited from local community groups throughout the state. All Visitors are indigenous people who have made a personal commitment to assisting supporting detainee/prisoners in their local areas. They are employed on a casual basis, but are available at all times to assist Detainees/Prisoners as the need arises.

To compliment the Visitors in their role, there is an after hours “on call” roster in place, which is the responsibility of the permanent officers to maintain. This service is provided, to ensure a fast turn around response, in the case of any emergency that may occur, outside of working hour’s weekends and public holidays.

Training

All prospective visitors are given 5 days of intensive in house training prior to their employment, thereafter a 3 day follow up training program takes place every 3 months (ongoing).

The training includes:

**General Issues**
- Introduction to the guidelines and objectives of the AVS
- Report writing
- Orientation visit to prison and a selected lock up
- Roles and responsibilities of the Visitor.

The role or duty of the Aboriginal Visitor is most crucial. The following role/duties is required to be known and understood by each visitor.
The Aboriginal Visitor

- Visits and provides support for Aboriginal and Torres Strait Islander people who are held in custody in police lock ups, prisons and detention centres.
- Monitors that Aboriginal and Torres Strait Islander people are dealt with humanely in police lock ups, prisons and detention centres.
- Complete written reports on observations made at lock ups, prisons and detention centres. Such reports shall be forwarded to the designated project officer responsible for that region immediately the visit is completed.
- Advises the Officer in Charge of the police lock up, prison or detention centre if the Aboriginal Visitor is of the opinion that the person in custody requires medical or any other urgent attention.
- Ensures that any matters of concern to a visitor, relating to a person in custody, shall be brought to the attention of the Manager of the Aboriginal Visitor Scheme immediately.
- The visitors are required to inform the Officer in Charge of a Police lock up, prison and detention centre of any observations made which relate to the condition of the person in custody and the condition in which they are being held, prior to departure.
- Attend all meetings and training workshops facilitated by the Ministry's Aboriginal Visitor Scheme.
- Attend other duties as authorised by the Manager of the Aboriginal Visitor Scheme or the project officer designated on call during the relevant period outside of normal working hours.

Counselling

Visitors are taught the six (6) basic stages of Counselling which would be effective and appropriate in terms of helping Aboriginal people in lock ups, prisons and detention centres. This applies especially for young people who may have been arrested for the first time and are experiencing stress, loneliness, isolation or depression.

The six (6) basic steps are:

- **To break through the isolation of the Detainee/Prisoner**
  Eg. Call out as you approach the person, convey a sense of caring by chatting, friendliness, and reassurance that you will do everything possible to help them.

- **To demonstrate that you understand**
  Eg. Listening, find out about their concerns, views. Never judge or criticise.

- **To determine the seriousness of a suicide threat**
  Eg. Look for signs of emotional, psychological, physical, analyse the situation.
Reality tests the Detainee/Prisoner, talk openly about the issues
Eg. Talk openly and honestly on how they feel, trust your own judgement, point out the consequences of their action. (Family/culture).

To involve the Detainee/Prisoner, in a solution. “Cure” for the Detainee
Eg. Helping them to recover from the despair by being positive, practical. Encouraging to participate in the process, staying with them till they feel O.K.

Then detach yourself — debrief visits involved in — “Cure” the Visitor
Eg. Feel that you have done your best “Walk on”, spend time with other visitors or support people to let go of any emotional involvement.

Visitor Support

Whilst the Aboriginal Visitor Schemes main focus is in place to provide appropriate counseling and support for Aboriginal prisoners who may experiences stress, isolation or depression for one or more reasons, we are ever mindful of the Visitors who, in dealing with these day to day occurrences, eventually, will need time out, due to the stressful situation they are being placed in.

There have been cases where Visitors were called out for the first time to attend a crisis situation. The Visitors involved were requested to counsel a prisoner who appeared to have suicidal tendencies. Upon arrival at the prison, the visitors are confronted with a person who is showing signs of depression. He is very agitated and keeps repeating “there is nothing left for him to live for, nobody cares for him”.

Initially they are prevented from going into the area where the prisoner is because the prison staff fears for their safety. However after much persuading the visitors are able to gain entry and begin to talk and gain the confidence of the prisoner. Over a period of time the visitors are able to calm the person and take control of the situation. Arrangements are made for him to move into another cell with a relative (buddy buddy cell) to give him support and companionship. He assures the visitors he now feels a lot better and is happy with the current situation. He also gives them a guarantee he will not harm himself. This counseling session has taken place over a period of approximately four (4) hours.

Imagine the feeling of frustration and despair as well as that feeling of failure on their part, when they are notified the prisoner has committed suicide that same evening.

Employee Welfare

The Ministry recognises that Visitors operate in a very depressive environment. The nature of prisons and lock-ups can be oppressive and stressful for the worker. Visitors at times are required to deal with disturbed and suicidal detainees.

This is especially the case, where for instance there has been a death in custody and visitors who have been counseling the person prior to occurrence, may be required to appear before a coronial inquiry to give evidence on this matter. In circumstances such as this visitors and support staff will need all the assistance that is available to them.
Employee Assistance Program

While the regular Aboriginal Visitors Scheme training workshop assist Visitors in coping with these pressures; it is also important to provide an alternative support mechanism for the workers. This has been implemented through the Employee Assistance program, which is an external agency (PRIME). Prime is contracted by the Ministry of Justice to provide counseling for work related and personal problems. The AVS also has at its disposal, the Ministry's Consultant Psychologist who attends meetings of the Visitors on a regular basis. This service is available in the metropolitan and regional areas and is free of charge to all employees.

Roles and Responsibilities – Custodial Staff

To date we have looked at the background of the AVS, the role of the Aboriginal Visitor as well as some of the training components he/she is involved in. There is another area of responsibility, which plays a big part in the success of the Aboriginal Visitor Scheme. That is the role of Custodial Staff.

Custodial staff has a role to play in the successful running of the AVS. For instance:

- The Officer in Charge of a lockup, Superintendent or delegate of a prison and detention centre are required to provide all Aboriginal visitors and orientation into their institution. These visits shall run in conjunction with the AVS induction/training program.

- The Officer in Charge of a lockup, Superintendent or delegate of a prison and Detention centre shall bring to the attention of all staff, information relevant to the Operations of the AVS, including the AVS guidelines and any updates that may occur.

- It is the responsibility of the Officer in Charge of a lockup, Superintendent or delegate of a prison and detention centre, to meet with visitors at the completion of each visit and debrief on any relevant matters of concern that may have an effect on the well being of any prisoner. However in appropriate cases, these matters may be referred to AVS Management for further action.

- An Officer in Charge of a lock up, Superintendent or delegate of a prison and detention centre, any at anytime call up on the AVS to visit a detainee/prisoner who may be considered in need of assistance.

- It is the responsibility of the Officer in Charge of a lock up, superintendent of a prison and detention centre, to take action on concerns raised by the Visitors that are relevant to any detainee/prisoner; then relay the outcome of any action to the management of the Aboriginal Visitor Scheme.

- It is also worth noting, at no time shall a detainee/prisoner be forced to meet with an AVS visitor against his/her wishes.

Summary

The Ministry of Justice in allowing the Aboriginal Visitors Scheme to retain its autonomy, in providing an independent service under the umbrella of its Aboriginal Policy and Services Directorate, has recognised that the AVS has been one of the most Contributing factors is assisting the reduction of Aboriginal deaths in custody.
The Aboriginal Visitors Scheme has pioneered a unique counseling service for Aboriginal and Torres Strait Islander people who have been incarcerated and continues to promote a greater understanding of the needs for our people in custody.

On a more personal level, I believe the ongoing service of the Aboriginal Visitors Scheme in Western Australia, relies heavily on the total commitment of all its workers, in their daily delivery of a very sensitive service.

I also believe it is the responsibility of custodial management and prison staff to be aware and understand the culturally relevant needs of Aboriginal and Torres Strait Islander People for this important program to proceed successfully. This can only be done through responsible actions of training personnel, catering to these needs through cross-cultural training programs.

Ladies and Gentlemen this brings to a close, my presentation, I sincerely trust that this information has been helpful, especially to those states and territories where similar programs are in operation.
ABORIGINAL HEALING PROGRAMS
AN ADMINISTRATIVE PERSPECTIVE

Mitch Kassen
Bowden Institution, Alberta, Canada

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Preamble

Aboriginal people constitute about 2.8% of the Canadian population yet they make up a staggering 16% of federally incarcerated inmates. Crime statistics demonstrate that aboriginal offenders are more likely, than the average offender, to be convicted of violent and sexual offences. Moreover, rates of incarceration confirm that Aboriginal offenders are less likely to be granted parole and more likely to be suspended subsequent to release. If these trends continue, it is anticipated that the number of aboriginal offenders behind bars could mushroom over the next decade. This is particularly believable when one looks at the population explosion of these people vis-à-vis non-aboriginal people.

Evidently, the politicians in collaboration with the Correctional Service of Canada have come to appreciate the urgent need to take appropriate action towards the goal of safely reintegrating a greater percentage of these offenders. It has been established (primarily through error) that conventional/contemporary assessment and treatment of aboriginal inmates is not enough. The Correctional Service recognises that programs and services, for aboriginal prisoners must address cultural and spiritual requirements.

The Correctional Service of Canada, and especially the Prairie Region component of that Service, believes that current aboriginal program initiatives are starting to positively impact aboriginal offenders. Bowden Institution, a medium security institution, located in central Alberta, provides a multitude of multi-cultural programming to address the needs of its aboriginal offenders. Whether the issue is one of substance abuse, violent behaviour, family dysfunction or sexual deviancy, the focus of aboriginal programming is "healing".

For the aboriginal sex offender the most important objective of correctional treatment rests with involvement in Bowden Institution's Aboriginal Healing Program.

In addition to providing an administrative perspective on aboriginal programming, I have included some background information on Philosophy, Approach and Evaluation that I hope will be of interest.

Part 1 Legislative Authority

Corrections and Conditional Release Act - 1992

- Section 3 - The purpose of the federal correctional system is to contribute to the maintenance of a just, peaceful and safe society by (a) carrying out sentences imposed by courts through the safe and humane custody and supervision of offenders; and (2) assisting in the rehabilitation of offenders and their reintegration into the community as law-abiding citizens through the provision of programs in penitentiaries and in the community.

- Section 4 - The principles that shall guide the Service in achieving the purpose referred to in section 3 are (h) that correctional policies, programs and practices respect gender, ethnic, cultural and linguistic differences and be responsive to the special needs of women and aboriginal peoples, as well as to the needs of other groups of offenders with special requirements.
• Section 76 - The Service shall provide a range of programs designed to address the needs of offenders and contribute to their successful reintegration into the community.
• Section 80 - Without limiting the generality of section 76, the Service shall provide programs designed particularly to address the needs of aboriginal offenders.

Part 2 Mission Statement

The Correctional Service of Canada, as part of the Criminal Justice System and respecting the rule of law, contributes to the protection of society by actively assisting and encouraging offenders to become law abiding citizens while exercising reasonable, safe, secure and humane control.

Part 3 Incarcerated Populations - C.O.R.E. Programming

The Correctional Service of Canada has a wide range of rehabilitation programs to treat offenders in order to reduce criminal risk. These programs can be broken into two broad categories: intervention and employment. Intervention programs have been developed to address characteristics related to criminal behaviour. These programs deal with such broad areas as treatment for sex offenders, substance abuse, family violence initiatives and living skills. Programming typically adapts the cognitive-behavioural treatment approach. Accreditation of all programs is viewed as essential. Employment programs are designed to enhance the offender's employability on release and also serve to keep offenders busy with meaningful work during incarceration. Examples of employment programs include vocational training, industries, adult education, institutional services, farming, and the like.

Part 4 Development of Specialised Programs for Special Needs Offenders

Increasingly it has become apparent that contemporary intervention programs have failed to effectively address the needs of the aboriginal population. Notwithstanding involvement in said programming, reintegration statistics have demonstrated that aboriginal peoples are less likely, than their Caucasian counter-parts, to secure conditional release (parole) and/or effectively integrate once released to the community - urban or rural. Initiatives to introduce a more holistic approach to correctional treatment commenced with the introduction of the Native and Inuit Elders to the institutional environment. These individuals, employed via contract, initially attended the institution to provide counseling and to lead aboriginal offenders in various traditional ceremonies. More recently the Elders, also referred to as "Healers", have played an integral role in certain intervention programs. The Aboriginal Healing Program, piloted at Bowden Institution in 1996, addresses sexual deviancy in the aboriginal offender. The program has grown out of awareness that many aboriginal sex offenders make significant treatment gains when engaged by a respected member of their own community.
Part 5  Composition of the Program

The Aboriginal Healing Program (AHP) is a voluntary sex offender treatment program based on "informed consent" that seeks to combine traditional (holistic) First Nations' ways with contemporary relapse-prevention programming. Offenders are taught that the healing process is ongoing. Offenders are supported and encouraged to share stories albeit disclosure is not the end all and be all! Living in balance is stressed and participants are taught about the four major life areas - physical, mental, spiritual and emotional. Participants develop a wellness plan that encompasses each of these areas. This wellness plan forms the foundation on which participants devise a post-release relapse prevention plan. Emphasis is on reintegration with family, with community and with victim and family (when appropriate). Within 30 days of completion of the program a post-treatment assessment report is completed. This critical document assists both Case Management staff and The National Parole Board in making well-informed recommendations/decisions specific to conditional release.

This "moderate intensity" treatment program is delivered by two Service Providers in accordance with Standards established by the Service. In addition, involvement of an Elder (primarily via ceremony) is vital to the delivery of the program. A Clinical Director (Psychologist) oversees the delivery of the program. This individual ensures that the quality and integrity of the program is maintained. He/she reports to the Program Manager (Deputy Warden). The Manager ensures that standards are met and that required audits and quality assurance activities are recorded in a timely manner.

The target group for the Aboriginal Healing Program has been First Nations or Metis who have committed a sexual offence. Bowden Institution, up until recently, also delivered an Inuit Healing Program. While the treatment design was comparable, Service Providers and Elders, knowledgeable in Inuit culture, coordinated delivery.

Part 6  Barriers to Learning

From an administrative perspective Bowden Institution was faced with a growing aboriginal population. We had to analyse, discuss and implement programming that would be relevant to the needs of the offender while providing the offender with the skills and cognitive understanding to make the program work. Thus, we needed to examine the barriers to learning that these inmates would face upon entering the institution. We determined that there were a number of areas that had to be addressed.

Education - The education of the aboriginal offender was typically low. Although the offender had a number of years of formal education, research indicated that the achievement level was equal to that of a twelve or thirteen year-old or a Grade 8.

Work Skills - Most aboriginal offenders had limited work skills.

Language Barriers - Many of our Aboriginal population could not speak English. Moreover, many of these offenders came from isolated communities with limited contact to outside communities. In essence, communication and dialogue with anyone outside the community, notwithstanding the language barriers, was a relatively foreign process.
Different Cultures - The cultural perspective of the aboriginal offender was based on traditional aboriginal culture as opposed to the Judo-Christian background that the majority of offenders come from.

Food - Aboriginals from isolated communities, such as the Northwest Territories, had a significantly different diet than that of most Canadians. Their main-stay consisted of muskox, arctic char, whale and blubber. A far-cry from meat, potatoes and vegetables.

Understanding of Modern Technology - In some aboriginal communities (Northwest Territories) there is very little, if any, understanding of modern technology especially as it relates to learning.

Communication Problems with their Home Communities - As a national organisation, federal institutions often have a mixture of offenders from different parts of the country. Some aboriginal inmates were 3500 miles (5600 kms) from home. Furthermore, their home communities were isolated often with one or no phones in the community. This was a problematic situation not only for offenders wishing to visit with their families, but also for the English speaking staff detailed to gather feedback from the family/community specific to the offender.

Loneliness - Due to the distance from the institution to the home community physical contact was rare, if not, non-existent. For some of these individuals loneliness was a major factor in dealing with other problem areas.

Offences not limited to a Single Domain - By the time the aboriginal offender arrived at a Federal Institution he had generally compiled a multitude of offences. The offence pattern was alcohol/drug related, violent, often against family, mixed with anger and aggression and almost always included a sexual related offence or offences.

Availability of Staff to deal with the Aboriginal Offender - Bowden Institution is situated in a rural area. It is situated approximately one and one half-hours from a major city and individuals who specialise in Native languages and cultures. Thus, the availability of professionals (interpreters, psychologists, elders etc.) to assist is dealing with this problem, was limited.

How did we overcome these obstacles? First and foremost we tried to make the day similar to a day in the community. We realised that an adult could not spend the entire day, for years, strictly committed to a formal program environment. The day must be structured to be interesting and varied. Moreover, the day could not end at four or five o'clock but must include activities during the evening.

At the reception process all aboriginal offenders are educationally tested. Thus, we know the comprehension level that we are dealing with. For those who needed it, we established educational classes that addressed the offender's needs. We introduced Cog-Net, an educational process that dealt with cognitive concepts, not strictly 2+2 environments. We were then able to deal with program concepts i.e., crime cycle, types of behaviour, actions and reactions to fellow offenders and staff, release planning, etc. From this vantage point we adapted our programming (alcohol, anger, cog skills, sexual deviancy) to compliment what had been learned in class. We also utilised inmates as tutors to translate and explain concepts to those offenders who did not understand English.
As part of our commitment to create a well-rounded day that is both interesting and challenging, we broke up the day and had offenders attend work programs. These programs are similar to those in the surrounding communities albeit there is no requirement for the offender to be highly skilled in order to obtain a particular assignment. Work programs range from woodwork, welding, electrical, plumbing to cooking, cleaning etc. Training and supervision is provided on an ongoing basis.

During the off-hours we established a crafts program that was traditional in nature. Local Aboriginals became involved in making traditional native crafts i.e., tent making, the making of drums and painting. Aboriginals from northern communities had the opportunity to do soapstone carvings, woodworking etc. Not only did this facilitate productivity amongst the Aboriginals, they could send their crafts to their families who in turn could sell them and supplement their household income.

Specifically for the Inuit offender, who came from the Northwest Territories, we set aside a special room, with satellite television set to receive Inuit programming. In this way the offender could benefit from visual contact with his community. In addition, we established a video program whereby we would videotape the offender and then send his message to his home community/family for viewing. This did much to assist the offender to overcome loneliness.

In an effort to promote a multi-cultural institution the local native offenders organised cultural days, Elder workshops and family gatherings. These were held with traditional food, dance and song. For the Inuit offenders, arrangements were made to bring in traditional food from the north. These monthly feasts also included culturally based activities.

We knew that one of the most important obstacles that necessitated action was the language barrier. As previously stated we utilised offenders, who understood both languages, to explain concepts and translate for us. However, this effort only touched the surface of what was required. Aboriginal offenders came to us with a multitude of problems. These problems had to be dealt with to the point that we were satisfied that when these people returned to their communities they no longer presented a danger or the danger that they did present was diminished and could be dealt with in a community environment. In an effort to address this we put together a multi-disciplinary team. A Unit Manager and a Psychologist headed this team. Members of the Team included Parole and Correctional Officers, Nursing Staff, Program Deliverers, Elders (Inuit (northern) and Cree (southern)) and a Liaison Officer of Aboriginal descent. Under the direction of Dr Roger Holden (Psychologist) and Mr Ron Linklater (Unit Manager), low to moderate programming was developed that dealt with sexual deviancy, anger, family violence and substance abuse.

This Team assessed 'risk' of all Aboriginal offenders at Intake. Those offenders determined to have either a low or moderate risk level were appropriately channeled into local (onsite) programs. Those offenders determined to be high risk were scheduled to attend a more intensified program offered at a facility outside of the institution. In this way, the treatment provided matched the level of risk. Regardless of the intensity of treatment, each treatment program included a relapse prevention component. Accordingly, each offender would come to an understanding of his specific crime cycle. Pre/Post Testing and a formal written evaluation were also characteristic of each treatment program.
Part 7 Why the Program Works

Traditional Aboriginal treatment stresses an approach that allows the offender to align himself as a whole. For the aboriginal person, to achieve balance within oneself (mentally, emotionally, physically and spiritually) is more important than to treat the separate illnesses. Traditional healing provides the offender an opportunity to develop a clearer sense of self-identity, cultural awareness, pride and belonging. Ceremonies (i.e., Healing/Sacred Circles, Pipe Ceremonies, Smudging, Sweats, Feasts etc.), led by an Elder, facilitates a caring, supportive and safe environment for offenders to disclose both personal and offending histories. When an offender's participation is enhanced it is possible to connect that person to his potential.

The Aboriginal Healing Program does not work in isolation. Management, Operational staff, Program staff and Elders attribute success with the program to a collaborative effort. Consider the effort involved in facilitating a sex offender program in general population? Consider too the teamwork that is required to ensure that the differing philosophies about treatment/healing are not compromised? Suffice to say, all who participate are equal partners in program delivery.

Bowden Institution's success with the Aboriginal Program is, in and of itself, inadequate. Follow-up treatment is a critical component of the correctional process. The Corrections and Conditional Release Act requires that Aboriginal communities be encouraged to become involved in said process. Involvement in not limited to release planning but can include the provision of correctional services at the front-end. Presently, in Alberta, a minimum-security facility and a 1/2-way house, both of which are explicitly geared towards the aboriginal offender, are operational. It is anticipated that these community-based facilities and others (still in the planning stages) will further advance our reintegration efforts.

Part 8 Research

The Correctional Service is beginning to produce an extensive amount of literature on aboriginal programming. Dr. Sharon Williams has produced a paper entitled "Aboriginal Sex Offenders: Melding Spiritual Healing with Cognitive/Behavioural Treatment. Lawrence and Ellerby have prepared a document "Understanding and Evaluating the Role of Elders and Traditional Healing in Sex Offender's Treatment for Aboriginal Offenders." Additionally, Dr. Roger Holden continues to do research via the Aboriginal Healing Program.

There is an abundance of literature that can be accessed through the Internet as well as through the Correctional Service of Canada Web Site.
Part 9  Concluding Remarks

So what have we learned? We know that, faced with a task, our staff is flexible, adaptable and willing to accept the challenge. That, regardless of educational level, staff is ready to take on a challenge to enrich their jobs. That careful planning and assessment will go a long way to a successful program. That community contacts, Elders, Social Workers, Liaison Officers, Parole Officers, etc. are a necessity. That offenders will be returning to the community at some point and without these contacts and a continuum of care, any success would be much harder to achieve. That given time, the average offender desires to understand why he did something wrong, and at least in the short run, is willing to change his behaviour. That there is a requirement to deliver programs that include a role for Elders and Traditional Healers. These individuals not only help with the cultural component of the program, but also assist with the language translation, conceptual understanding and release planning. Moreover, they assist the Therapists and often become a Therapist in the group. That the Elder lends credibility to the group both within the institution and outside. That a good Elder can break down cultural barriers between Native Groups by explaining common themes and not interjecting tribe biases.

The Correctional Service of Canada is satisfied that there are irrefutable benefits to the aboriginal offender who participates in programming which consists of a "melding" of spiritual healing and cognitive-behavioural treatment. The challenge of moving forward with this blended approach will be to find ways of working together in a clear and cooperative manner. Sharing of information and ideas, nationally and internationally is an important part of meeting that challenge. Undoubtedly we all have a vested interest in providing the most effective means of healing the perpetrator.

We have come a long way in meeting the needs of the Aboriginal offender.
KEYNOTE ADDRESS

John Paget
Department for Correctional Services, SA

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
As the "in conjunction with" partner of this conference with The Australian Institute of Criminology, I would like to second the Attorney-General's welcome to South Australia.

I would like to acknowledge the efforts of Dr Graycar and Ms Vicki Dalton of the Institute in bringing the idea of this Conference to a reality. All but the naïve would not be aware that the political dimensions and sheer logistics of a Conference such as this are difficult to manage and require patience and understanding. Vicki has demonstrated admirable evidence of both.

For my part, the origins of this conference go back to a visit I was making a year or so ago to Port Augusta prison, 3 ½ Hours to the north from here. In the women's section of the prison I came across a traditional Aboriginal woman from The Anangu Pitjantjatjara Lands, 800 kms to the North of Port Augusta.

Her diet had been clearly poor over time and her health was not good. While not old, her accumulated adverse life experiences had aged her beyond her years. She was concerned for her children remaining in the lands and clearly could not understand the alien concept of social control, which had now touched her life. One could only query what on earth were we achieving.

We set out to provide an option to the courts to transporting traditional people from the lands and elsewhere, away from their families, supports and culture to Port Augusta, which was becoming an accepted as an inevitable rite of passage. We acknowledged that while we had some experience and knowledge on what management regimes, programs and interventions had been effective for Indigenous people, not just traditional people, there was still much we needed assistance with. In eliciting ideas from other jurisdictions, the lack of a comprehensive awareness amongst us of what others were providing for and had found useful in addressing the needs of Indigenous people in custody, not just for traditional Indigenous people, was both obvious and unfortunate, even while making allowances for differing needs.

This lack of awareness was also regrettable, because there is much that is innovative and exciting in hand across the face of this country which cries out to be seen and to be heard. You will be exposed to some of these during the conference.

A major aspect of determining "what works" is the continuing lack of clarity on just that in the larger context within which this conference is framed. This was evidenced in the vigorous debate which followed Mr Noel Pearson's speech to the Brisbane Institute on the dysfunctions of past policies and programs, especially those associated with welfare, on Indigenous people.

And this debate is not unique to Australia. On the other side of the Tasman, Mr Alan Duff, the author of Once Were Warriors, had made similar comments on welfare policies and programs and their impact on the well being of Indigenous people in New Zealand. The chairman of the Northern land council, Galarrwuy Yunupingu, commented that Noel Pearson's discussion was an example of the kind of open and critical debate that is much needed. What I hope for is that the debate at the national level will be productive for Indigenous prisoners who are the focus of our attention here over the next three days.

Against this background of a lack of a National consensus on the appropriate policy settings and programs to give effect to those policy settings, those with responsibilities in the correctional environment are faced with the consequences of this gap and the immediate challenge of managing substantial numbers of Indigenous prisoners with high demands and needs.
There is thus an urgent need for understanding and agreement, based on empirical evidence, on what does work to ameliorate the circumstances of Indigenous people who are placed in the care of correctional administrators and for whom they are responsible.

Hence this conference - to share. Unashamedly, we in South Australia hope to learn from you; if we are to provide effective services to Indigenous people throughout the State, we don't have the time or resources to re-invent what you may have already found to be productive. For our part, we are quite proud of some of our endeavours which may be of interest to others and we are more than happy to share these with you.

I now want to make a slight diversion of my own. As a Correctional Administrator, there are, I think, several important issues which are not well understood by all those which have an interest in and commitment to meeting the needs of Indigenous people in custody, in particular in adult correctional custody.

Firstly, the most important intervention which custodial environments are concerned is that which is directed at getting people through the night safely.

While deaths in custody appear to be intractable, despite the best efforts of many dedicated people, and appropriately attract continuing research, inquiry and condemnation, I have been struck by the lack of appreciation of several factors which I hold to be important.

Even recently, I have noted respected researchers commenting on the difference in numbers of deaths in custody in police and correctional facilities, apparently oblivious to the fact that in most jurisdictions correctional authorities now clear police cells on a daily basis. This then concentrates a large population of people who may be detoxifying, disaffected, disturbed and fragile together in correctional settings. That reality needs to be recognised.

I also believe we need to recognise the increasing demands placed on correctional jurisdictions, which in many cases find themselves providing the first assessments, programs or interventions which prisoners, Indigenous or otherwise, with manifold deficits, disabilities or needs, may have ever been offered.

In May this year, Professor Ian Ring, head of public health and tropical medicine at James Cook University, at the annual scientific meeting of the Royal Australian College of Physicians, stated that Indigenous people are 3 times sicker than the remainder of the Australian population, are not getting any better and have a life expectancy 16 to,18 years less than the remainder of the population. These statistics were supported by the ABS figures released in August. And in the year to date the ABC Radio National website already has three program transcripts on Indigenous health. For all correctional administrators, and their colleagues in corrections health, Professor Ring's comments and the supporting ABS figures come as no surprise - we daily deal with the demands presented by people with such poor health and the complications and demand for services and management which this poor health gives rise to.
In addition to the issue of poor general health is the specific issue of the problems faced by correctional jurisdictions in trying to cope with increasing numbers of prisoners with specific behavioural and mental health problems. While this reflects similar problems confronting the whole community, the prison population manifests depression at 5 times the community rate; schizophrenia at 10 times the community rate and anti-social personality disorder at 20 Times the community rate. Most in this audience would, I think, also appreciate the nexus between mental health and drug abuse.

My point is quite simple. Any death, natural or unnatural, in custody is unacceptable. But with increasing numbers of people with extensive needs and vulnerabilities concentrated in correctional settings, which are sometimes overcrowded, and in the first crucial hours of their interaction with the criminal justice system, We should not be afraid to acknowledge the achievements of dedicated corrections, corrections health staff and community members in nurturing and rehabilitating so many for so long.

And this achieved at the back end of our social system, at the back end of the criminal justice system, where, as you all know, there are no votes.

That many of you are here to explain programs and interventions of which you are justly proud is evidence of particular achievements in sustaining Indigenous people in custody and in many cases also their families.

Yet many of these achievements are not widely known or appreciated. Hopefully, this conference will provide a vehicle to give exposure to your endeavours. I think it is very important that we ensure appropriate recognition of what has been found to work because, in general, the media is not interested in our successes, it is our failures which make good copy.

So, over the next few days I hope to learn. I also hope that the 90 staff from my department who are attending the conference will learn with me. I hope that we will gain insight and wisdom from many of you who have much to offer and have come so far to do this. I hope that this will enable us in SA to better respond to challenges posed by the number of Indigenous people in custody, which no reports which I have seen, indicate any prospects of diminishing.

In July this year, while speaking on reconciliation, Pat Dodson said “now in some cultures they have these sorts of freeing of the prisoners, or an amnesty of some type, or whatever it is. I mean if you had a revolution you’d open up the gates and let the people out. One of my dreams is to let the people out.”

I would like to think that over the next three days we can together make a contribution to Pat Dodson’s dream.
GURMA BILNI - CHANGE YOUR LIFE
A HOLISTIC SEX OFFENDER PROGRAM FOR
ABORIGINAL MEN IN THE NORTHERN
TERRITORY CORRECTIONAL CENTRES

Dr Sharon McCallum
Sharon McCallum and Associates Pty Ltd, NT

Ian Castillon
Northern Territory Correctional Services

Paper presented at the Best Practice Interventions in Corrections
for Indigenous People Conference
convened by the Australian Institute of Criminology
in conjunction with Department for Correctional Services SA
and held in Adelaide, 13-15 October 1999
The Project - Intervention Research

The Gunna Bilni - Change Your Life program is the outcome of an intervention research project funded by the Institutional Programs section of the Northern Territory Correctional Services, and conducted by consultant Dr Sharon McCallum. Intervention research incorporates a range of different methodologies, one facet of which is called Design and Development (Thomas & Rothman, 1994). There are six dynamic stages to Design and Development research, and this project is now at stage six, even though the program itself will continue to grow and develop.

Stage 1 - Problem analysis and project planning: What was the problem and what could be done about it?

The project which resulted in the Gunna Bilni - Change Your Life program was born of the frustration of Community Corrections Officers not having an appropriate intervention option for traditional Aboriginal men who had committed sex offences. The officers’ experience had been that interventions on offer may have suited non-indigenous men, but were not appropriate for Aboriginal men. Similarly, such programs were based heavily on an Anglo culture, and required participants to have a high level of literacy in English.

Stage 2 - Information gathering and synthesis: What ideas were around and which of them seemed suitable?

It was assumed that given the profile of those clients requiring intervention (traditional, non-English speaking Aboriginal men from remote locations), and the inability for existent intervention to cater for these people, that something new was going to have to be created. It was also known that there were alternative methods of working with sex offenders which had not yet been tried in the prisons, and with Aboriginal people. As a result, Dr Sharon McCallum was contracted as the consultant in the belief that she could offer an alternative to the standard cognitive-behavioural relapse prevention interventions being utilised by most sex offender programs.

Stage 3 - Design: Okay, how do we do it?

The Institutional Programs section of the Northern Territory Correctional Services were clear from the outset that they wanted a program which would suit indigenous men, from across the Territory, who were being detained in Darwin and Alice Springs prisons. Further, the program had to be accessible for all types of offenders and able to function with the resources, including staffing, already available within the organisation. It was also made clear that the consultant, Sharon, had the option of developing a program, which was quite different to standard sex offender programs, if that was what was required to meet the outcomes of the program. A time frame of two years was given to complete the project.

Stage 4 - Early development and pilot testing: Right, let’s get started

As a beginning point, a philosophy and list of principles were established which was acceptable both to the consultant and to those department staff, which were involved in the project. Evaluation of the program was designed such that it could be conducted as an ongoing process, with a review at the end of the project.
It was decided that the best place to develop this program was with the offenders themselves and so a group was started at Darwin Correctional Centre drawing on those men who were known to facilitators and to whom they knew they could relate. Other Aboriginal men from within the prison were asked to assist with language and cultural barriers to ensure that facilitators were not making serious errors. Facilitators spent time at the end of each group discussing and deciding where to go next. This process continued for a period of six months or so with process notes being kept after each session and new ideas and techniques being trailed along the way.

In that time, contact was made with other jurisdictions in order to determine whether anything was operating currently in Australia. These contacts provided little information. Sharon also travelled to Canada to examine sex offender programs, which were being run for indigenous Canadians. While this was heartening as it indicated that the direction was right, there was no program which fitted the needs and circumstances of the Territory Aboriginal men.

**Stage 5 - Evaluation and advanced development: How are we going and where to from here?**

At the six months stage, it was decided that the time was right to introduce the program to the Alice Springs Correctional Centre. An embryonic program outline and facilitators’ manual was developed based on the early work done in the Darwin Correctional Centre. This material was taken up by the designated facilitators in the Alice Springs Correctional Centre and contact between Sharon and the Alice Springs group leaders was maintained on a weekly basis to provide on-going evaluation and to continue to develop the program.

Also in this stage Sharon made contact with internationally known researchers and sex offender facilitators. A series of electronic discussions with these people confirmed that the material being developed here was in line with the cutting edge of work being undertaken by in the revitalisation of practice with men who have committed sex offences.

The process of development and evaluation of the Gurna Bilni - Change Your Life program continued over the last 18 months of the Project, with new facilitators being trained, the program being refined, interim reports being written, and the Manual reaching its final draft. Ian Castillon now takes primary responsibility for the Darwin Correctional Centre program, while Geoff Manu runs the program in Alice Springs Correctional Centre.

Programs such as this one can never be seen as fully developed, especially one that is only two years old and working in a field about which little is known. As such the program will have to be continually monitored and reviewed as new information is revealed and the knowledge bank increases.

**Stage 6 - Dissemination: And now we have to tell everyone what we did**

The dissemination of information about this project began in the early stages. As soon as Community Corrections Offices started to raise it as an option in courts, magistrates and judges became interested and Sharon and departmental staff started to receive inquiries. Similarly, when departmental staff talked about the project at interstate venues, they were often asked for more information about it.
More broadly, the media came to know about the project from the courts and several interviews were done with them. The material has been presented at a number of workshops and conferences, and will be written about for publication in scholarly journals.

Principles/Philosophies of the Program

- Gurma Bilni does not aim to “cure” anyone - no program can. The program aims to provide an environment in which men from a range of different backgrounds (communities, language, offences etc) can come together in order to identify the reasons they offended, and to develop plans to prevent the offence occurring again.

- The program provides a process by which men can identify problems and find solutions to them. It is not about punishment. The program aims to provide an experience for the participants which is empowering, trusting, open and caring of the person, while not condoning the offence.

- The group operates in an environment of respect at all times. Clients, like everybody else, are most likely to talk about their behaviours, feelings, etc in a safe environment.

- The men in the program are clients, not prisoners. They may be prisoners with the prison system, but they are clients of the program.

- The program is voluntary, and participants may withdraw at any time.

- The program runs as process groups, around discussion topics, rather than an educative or cognitive-behavioural program, although it may cover topics, which relate to behaviour or cognition.

- The program is designed to be on-going, with new people joining as they enter the prison. Ideally, clients will join as soon as they are placed in prison as this maximises the opportunity to change. It is also useful for men to undertake, or re-visit, the program before release as a refresher. Further, on-going groups allow for participants to move at their own pace, rather than at the pace set by the facilitators. It also allows more experienced group members to encourage newer members into the program. On a practical note, there are not always enough men in the prison at any one time to run a complete close-ended group.

- The program is holistic in nature. It is designed to cover as many issues as the participants believe to be relevant to their offending. This may include alcohol abuse, domestic violence and so on. Sex offending does not usually happen in isolation of other problems men experience, and it is important that men be given the opportunity to see how the various pieces of their lives inter-connect.

- The client is the expert about his feelings, his specific offending patterns and so on. This is particularly so when we are working with a variety of different cultures and backgrounds (made more difficult about our lack of understanding about Aboriginal sex offenders).
Program Format

The program is an open-ended one, which provides opportunities for men to move through at their own pace. This allows the program to cater for those men who are at different stages of readiness to address their offending behaviour.

Each person coming into the program has a pre-group/assessment meeting with a facilitator. This meeting describes the program, gathers information from the client and reminds him that the choice to do the program is his alone. Should he then come into the group, he will be able to “tell his story” to the rest of the group, and the facilitator, at a time when he feel confident enough to do so.

The program is designed as a series of discussion sessions, although each topic may be covered a number of times with often different issues and greater complexity emerging. Topics are many and include relationships, family, alcohol and drug use, assaults, effects of offence on victims and family, and cultural obligations.

When it appears to the facilitators that a participant has addressed many of the factors related to his offending behaviour, he is invited to do a stick figure session. Sometimes a participant himself will ask for this to occur. This process allows the client to reflect on what himself in the past, now, and in the future.

A participant leaves the program usually when they leave the prison. Sometimes this occurs before they reach the “stick figure” stage as their period of detention is less than the pace at which they have moved through the program. Occasionally, a participant may be asked to not come to the group anymore, however this is rare.

There is no set time period, or number of sessions, which determines when a participant moves from the pre-group/assessment meeting to leaving the program. Some men progress quickly through the program, while others find it more difficult. The degree of difficulty is usually related to the participant’s readiness to accept full responsibility for their offending and address it accordingly.

Conclusion

The Gurma Bilni - Change Your Life program will continue to develop as more is learnt about the sex offending behaviour of traditional Aboriginal men. This is a new field of endeavour and is highly complex and it will take time. Its success is largely dependent on the support which men receive on release from prison. At the moment such support is limited because of the remoteness of the communities to which many men return. Northern Territory Correctional Services is continuing to work on strategies, which would provide appropriate support to these men.
References


PARTNERSHIPS FOR INDIGENOUS HEALTH

Professor Michael Levy
Corrections Health Service, University of Sydney, NSW

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference
cconvened by the Australian Institute of Criminology
in conjunction with Department for Correctional Services SA
and held in Adelaide, 13-15 October 1999
Abstract

In 1996 Corrections Health Service (CHS) began discussions toward a partnership agreement with the then NSW Aboriginal Health Resources Co-operative (AHRC) [now referred to as the Aboriginal Health and Medical Research Council (AHMRC)]. Only metropolitan correctional centres, and one rural correctional centre, participated in that initiative. Furthermore, agreements between individual practitioners and CHS, while introducing much needed services to Aboriginal inmates, undermined discussions toward a statewide partnership agreement.

The absence of a partnership framework had led to the situation where services are provided by some AMS's for no remuneration, with no review process possible by CHS; some services are contracted directly with medical officers, with no process of review by AMSs; but mostly, services are not provided at all.

Motivated by four major issues, CHS renewed efforts in 1998-9 to develop local partnership agreements between CHS clinics and local community-controlled health organisations:

1. The disproportionate rate of Aboriginal incarceration in the state
2. Some data that supported the impression that Aboriginal inmates were reluctant to attend CHS clinics
3. Recognition of the inability of CHS to recruit Aboriginal staff, and
4. Some success with partnership arrangements in other Area Health Services.

The Need

Aboriginal inmates have unique health needs. The CHS recognises that these health needs are due in part to the disrespect and disruption of Aboriginal society by European settlement. While it is recognised that Aboriginal self-determination and community control are the key principles underpinning the development of a partnership agreement, the operating environment of CHS requires consideration, namely:

- Operations are statewide, (27 correctional facilities, on 23 sites), with support given to the Sydney and Moree Police Cells
- Operations within a secured environment, controlled by a separate agency (Department of Corrective Services), and
- The breadth of services provided combines community, primary, secondary and tertiary levels of health care.

CHS recognises that:

- The provision of responsive and sensitive health services is necessary to provide health care that is acceptable and meaningful to Aboriginal inmates
- Community control organisations contribute to the crucial component in the partnership agreements
- Affirmative action for the employment of Aboriginal Health Workers is crucial in addressing the deficiency in awareness of Aboriginal needs within the CHS.
The Population

At 30 June 1998, there were 1090 Aboriginal inmates in New South Wales correctional facilities - 994 males (14% of total male population) and 96 females (21% of total female population).

The proportion of Aboriginal inmates in NSW correctional facilities has risen inexorably from below 6% in 1982, to over 14% in 1998. While the overall prison population has almost doubled in this period, the rise among Aborigines has been disproportionate. Aborigines in New South Wales, male and female, are incarcerated at a rate greater than 10 times that of the general community.

The Inmate Census of 30 June 1998, revealed that Aboriginal inmates are younger than the total inmate population, are more likely to have a prior adult imprisonment, and are less likely to have a "most serious offence" for a drug related matter. The median sentence length was 23 months for male Aboriginals and 11 months for female Aboriginals, compared with 47 months and 20 months for non-Aboriginal males and females respectively.

The inmate population is projected to increase by 20-25% in the short to medium term.

The Health Status

The Inmate Health Survey was carried out throughout New South Wales correctional facilities in 1996. It was the first comprehensive study of inmate health status in NSW. A sample of 789 (13%) of the inmate population was surveyed. In February 1999 CHS commissioned a review into the Demand for Inmate Health Services. These two reviews highlighted several concerns for CHS:

- Aboriginal inmates were twice as likely to have been exposed to the germs of the tuberculosis family, than non-Aborigines
- 18% of Aboriginal males are hepatitis C antibody positive compared with 29% of non-Aboriginal males
- 45% of Aboriginal females are hepatitis C positive, similar to non-Aboriginal females, and
- 57% of Aboriginal males identified that they drank alcohol at a harmful level compared with 29% of non-Aboriginal males.

Data obtained from the reviews continue to be analysed. However preliminary results indicate that the key health needs facing Aboriginal inmates are:

- Primary health care services (diabetes, circulatory system disease)
- Women's health (sexual health, genital tract screening, maternal and child health)
- Public health (sexual health [including HIV], immunisation)
- Mental health services
- Alcohol and other drug rehabilitation services, and
- Oral health services.
Targeting these pressing areas, linked to social and environmental improvements, both in the general community and within the correctional environment, should deliver better health outcomes - in the short term to the Aboriginal people, and in the longer term to the general community.

Imprisonment, while regrettable, with severe consequences on the remaining social fabric of vulnerable individuals, may provide some opportunities for health improvement – both planned and opportunistic.

**The Health Service**

CHS has the sole responsibility for the provision of health services to all NSW inmates. Unlike most other prison medical services in Australia, CHS is funded by the Department of Health, and is independent of the custodial authority, the Department of Corrective Services. As a Statutory Health Corporation constituted under the *NSW Health Services Act, 1997*, CHS is responsible for providing and coordinating a comprehensive range of health care programs for people in custody across the state.

As all CHS clients are Medicare "ineligible", CHS has no alternate sources of funding, other than the NSW Health Department. CHS recognises that the provision of accessible quality health services is necessary to provide health care that is acceptable and meaningful to Aboriginal inmates.

Access to health services cannot be assumed, simply because it is provided, and in physical proximity to the inmate. In fact, physical proximity, may be made irrelevant by restrictions on movement and operational concerns of the custodial authorities.

- 34% of Aboriginal males access clinics regularly compared with 48% of non-Aboriginal males
- 48% of Aboriginal females access clinics regularly compared with 64% of non-Aboriginal females

**The Partnership**

In 1996 CHS began discussions toward a partnership agreement with the then NSW Aboriginal Health Resources Co-operative (AHRC) [now referred to as the Aboriginal Health and Medical Research Council (AHMRC)]. Only metropolitan correctional centres, and one rural correctional centre, participated in that initiative. Furthermore, agreements between individual practitioners and CHS, while introducing much needed services to Aboriginal inmates, undermined discussions toward a statewide partnership agreement.

The absence of a partnership framework has led to the situation where services are provided by some AMS's for no remuneration. There was no review process possible by CHS under this "arrangement". Some services are contracted directly with medical officers, with no process of review by AMSs; but mostly, services are not provided at all!

In December 1998, the NSW Health Department provided funds to CHS for broadening services to Aboriginal inmates and for the development of a comprehensive Aboriginal Health Strategy for CHS, through the formation of a partnership with the Aboriginal Health and Medical Research Council (AHMRC).
The CHS Aboriginal Health Plan has been called Care in Context in order to highlight the issue of equity of health care based on need. Since December 1998, a number of meetings between CHS and community-controlled Aboriginal Medical Services have fostered the development of local partnerships based on the principles of:

- Addressing barriers to health care
- Improved access to culturally-sensitive services
- Services to be provided with due consideration to confidentiality and security
- Effective, evidence-based health planning, and
- Ongoing monitoring and evaluation.

Local partnerships between CHS clinics and local Community Controlled Aboriginal Medical Services will form the basis of dedicated services to Aboriginal inmates throughout NSW correctional facilities. Lately, enhanced efforts have been made to include Area Health Services and Department of Corrective Services into the local partnerships.

The aims of the Plan are to:

- Improve the health of inmates, and
- Minimise the impact of burden of disease on the community

This plan for Aboriginal health services, when fully implemented, will provide:

- Dedicated health services to all NSW correctional facilities, with involvement from community controlled Aboriginal Health Services
- An employment target of 5% Aboriginal and Torres Strait Islander people by 2004
- An active training, development, research and evaluation program.

A Memorandum of Understanding will be developed between CHS and the Aboriginal Medical Services. The memorandum will clearly define each organisation's role and responsibilities and the evaluation process.

Three pilot projects are already being implemented as part of the partnership agreements between CHS and Bulgar Ngaru Medical Service at Grafton for Grafton and Glen Innes Correctional Centres, and the Wellington Aboriginal Cooperative Health Service for Bathurst Correctional Centre.

The Problems

One dilemma that arose early in negotiations was whether the anticipated funds required would be from existing funding to community controlled organizations, or be new funds.

There was generally poor conceptualisation of inmate "need", even fear, within the community controlled organisations – notably those that had not offered to prison services, to date.

Some Aboriginal communities have "total" involvement with the criminal justice system (eg: Bourke, Moree); their resources are fully extended with the legal aide needs of individuals; health needs are perhaps more easily deferred.
The high rate of incarceration among Aboriginal families means that AMS staff may be asked to work in a prison holding a family member. As this may breach security, this situation must be disclosed, and handled by the custodial authorities on a case-by-case manner.

Conclusion

CHS acknowledges the diminished health status of Aboriginal inmates among the general client group, and is committed to addressing this in a humane, creative and sincere fashion. Previous approaches to service provision have not responded to perceived or real problems of access to these services. Partnership acknowledges the role of other participants in the complex issues of providing health care, and striving to improve health.
CULTURAL ISSUES IN THE ARCHITECTURAL DESIGN OF INDIGENOUS CUSTODIAL FACILITIES

Associate Professor Paul Memmott
University of Queensland

Karl Eckemann
University of Queensland

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Introduction

To competently design appropriate accommodation for Aboriginal people in corrective institutions, who in normal life live traditionally oriented lifestyles, we must understand the nature of those lifestyles, particularly in the domiciliary context. This knowledge also assists in understanding the needs of groups who have undergone change, by allowing us to identify what aspects of their customary domiciliary behaviour have been retained.

Since the 1970s a handful of researchers have been studying the domiciliary behaviour of Aboriginal self-constructed shelters and settlements. These self-constructed camps are the 'laboratories' for the learning of customary lifestyles. The rationale is that architects cannot successfully design adequate housing and plan settlements for Aboriginal people unless there is an understanding of their everyday behaviour, especially culturally distinct aspects such as: the structures of sociospatial behaviour, the high degree of external orientation, frequent residential mobility, different concepts of privacy and crowding, and different values and attitudes about the possession and sharing of objects, including shelter.

Much of this paper comprises a brief review of customary aspects of Indigenous domiciliary behaviour, drawing from the available literature on Aboriginal housing as well as over 25 years experience by one of the authors working in this field. It is argued that much of this culturally specific design knowledge can be applied to the design of custodial facilities for use by Indigenous people, based on the premise of 'normalisation'. This principle holds that prisoners should have access to the services and opportunities available to them as normal citizens provided the provision of such does not threaten security requirements or exceed management capacities.

This paper will focus largely on this characteristic domiciliary environment as it is such an environment that could be replicated in various ways by architects in detention facilities. Aspects of customary domiciliary behaviour to be discussed will include external orientation, avoidance behaviours, household group structures, use of hearths, sleeping and eating behaviours, constructs of crowding and privacy, and responses to death. When describing these behavioural traits, we shall attempt to write on customary behaviours that were commonplace across much or all of the continent rather than locally restricted. We shall also write in the present tense since these behaviours continue to be widely practiced by many groups. This is indeed the point of this paper.

A second component of the paper will comprise a series of design strategies and criteria for Indigenous custodial facilities, which resulted from a national workshop “Indigenous Cultures and the Design of Custodial Environments”, held during November 1998 in Alice Springs. The workshop brought together architects, correctional directors, prison managers and Indigenous corrections policy officers from around Australia. These design strategies and criteria are listed at the conclusion to this paper, but they have also been individually positioned in the main body of the text adjacent to the relevant aspects of domiciliary behaviour from which they are generated. The review of domiciliary behaviour thus serves to substantiate and/or explain each of the recommended design strategies (Memmott, Eckermann & Brawn 1999).
Domiciliary or Household Groups and their Classification

In many reports for Northern and Central Australia, there is a consistent classification of the domiciliary group, or households associated with a domiciliary space, into three basic types:

a) Nuclear family (a nuclear family comprises a man, his wife or wives, their unmarried daughters and uninitiated sons) (eg. Meggitt 1965, Denham 1975)

b) Single men's group

c) Single women's group

Each domiciliary group has its own domiciliary space which is regularly used at night-time and sometimes during the day (but this varies, based upon many factors).

Sociospatial Structures of Aboriginal Settlements

Definition: the sociospatial structure or pattern of a large Aboriginal camp is the division of such a settlement into spatial zones (sub-camps, sub-camp clusters), each occupied by an aggregate of domiciliary groups, and each possessing some common social identity and characteristic social structure.

Aboriginal societies are characterised as employing a number of integrated sub-systems of social organization, some components of which are incorporated into the ensuing analysis. The types and combinations of such sub-systems vary across the continent. They can be broadly broken down into (i) kinship, (ii) class systems, and (iii) local groups. Sociospatial structures may be based upon any combination of the former types, that is to say, a division into sub-camps may be based on kinship, class systems or local groups and further subdivisions into sub-camp clusters may also be based on the same criteria.

For example, agnatic sociospatial principles (or father/child links) were prevalent amongst many groups. An example is that of the Nunggubuyu of Eastern Arnhem Land, who had a three-level agnatic sociospatial structure consisting of (i) patriclan sub-camp; (ii) patrilineage sub-camp cluster; (iii) domiciliary group. These levels were arranged as nested clusters.

Another key organisational criteria is gender. Nocturnal domiciliary groups are usually divided into nuclear families, single men's groups and single women's groups. Diurnal groups in large camps or settlements are often based on gender divisions.

In addition to principles generating group identities, another generative principle behind sociospatial structures employed across the continent, is that of locational prescription. However, there is not unity of agreement in the case studies about the precise nature of this locational prescription. Many reports talk of camping in the direction of homeland, i.e. a directional prescription which may have been generated simply from the direction of approach of incoming groups into a large camp. A causal hypothesis for this phenomenon is the facilitating of case of retreat in the case of conflicts arising in the camp. However an alternate hypothesis and probably more plausible is that there are culturally distinct notions of respect and privacy associated with such approach behaviour and camp-site selection behaviour. Some researchers speak of sub-camp groups replicating the pattern of distribution of tribal or language groups, as if there was a conscious attempt to generate a sociospatial structure signifying a map of the land tenure of local groups.
A range of functional arguments can be put forward to explain sociospatial structure: (i) expressing and maintaining kin relationships through behavioural style; (ii) expressing and reinforcing social group identities of various forms; (iii) expression of the economic dependency between domiciliary groups; (iv) achieving a certain style of privacy; (v) minimizing conflict between groups through distancing and concepts of 'respect'; and (vi) safety of retreat to homeland.

What are the implications for contemporary sedenterised Aboriginal settlements? Are sociospatial patterns being maintained under conditions of cultural change and sedenterisation? If so, how important is it to acknowledge and preserve such patterns? Preliminary analysis indicates they may have been lost in some communities, whilst in others they have survived for contact periods of up to 150 years and represent important social identity systems. However in many cases they are under threat. For example in Alice Springs, Tangentyere Council has maintained a vigorous campaign to preserve sociospatial structures in urban villages in the face of bureaucrats who fail to acknowledge the social functions of such. These bureaucrats mistake spaces between sub-camps for under-developed land and because of such alleged 'waste', refuse to grant land tenure to other wanting squatter groups.

There is thus a need to understand the rules of composition of Aboriginal camps before designing new settlements for such groups.

**Recommendations for Correctional Facilities:**
- Approach each design project independently, in order to recognise the scores of cultures which exist amongst Indigenous people (as well as non-Indigenous people) across the country, with varying systems of laws and customs. There is no one solution. This will involve building a social profile of the inmates to understand their composition in terms of distinct cultural groups.
- Cell arrangements should cater for placement into social groups (eg. skin groups, language and 'age' groups) where appropriate.

**The Domiciliary Space**

The customary domiciliary space is made up of shelters, hearths and activity areas. Artefacts, food, water and various resources are stored in the domiciliary space. The surface is kept clean and refuse removed (usually by sweeping). Customary shelters can be categorised into three types: (i) windbreaks, (ii) enclosed shelters, and (iii) shade structures. The type of shelter constructed in a domiciliary space will vary with the season. The functions of such shelters are sleeping, seeking privacy, obtaining protection from inclement weather and storing goods and equipment.

(i) In windy but otherwise fine weather, a windbreak was (and still is in many places) used as a main shelter almost everywhere on the continent. The windbreak allows sunshine entry in the day, and together with warming fires, provides protection from cold wind, especially at night. Wind direction dictates orientation. The height is such that the occupant can see over the wall.

(ii) Enclosed shelters, roofed and partly or wholly walled, were and are used in inclement weather, especially wet weather, and at camps where residence might continue for more than several months.

(iii) Shade structures were and still are regularly used in most parts of the continent, especially in summer. There are a range of sub-types.
Sensitive architects will ensure that the spatial options provided by these three basic shelter types are available in houses and other types of accommodation that are designed for Aboriginal clients (e.g., Tangentyere Council’s house designs in the Alice Springs town camps).

Researchers have noted much variability in the location of household activities especially in single gender camps (e.g., O’Connell 1987, Keys 1999). There is sometimes a division of the domiciliary space into male and female activity zones for nuclear family households (Binford 1987). Many examples can be spatially analysed into sleeping area, general diurnal activity area, and roasting pit area.

In the recent work of a number of Australian architects, a generic design type, the ‘decentralised house’ has now evolved from a two-step design process which:

1) Makes observations on the subdivision of Aboriginal domiciliary space and behaviour in vernacular settings including night/day, dry/wet, cold/hot and gender specific distinctions, and

2) Thereby generating the design outcome of different types of structures (form, materials, degree of enclosure) for different activities at different times.

This results in a house as a set of separate structures, combined with other site elements and services, rather than the conventional concept of the house as a single structure containing a range of internal subspaces for different activities. The reader is referred to Memmott (1993, 1994) for a review of examples of decentralised houses.

Recommendation for Correctional Facilities:

- Ensure design and choice of accommodation and recreation spaces reflect preferred Indigenous lifestyles eg. outdoor provision of shade, sitting surfaces, wind protection.

Hearth

Aboriginal hearths are often multi-functional, but in many cases can be clearly categorised into several types, viz. sleeping fires, warming fires, mosquito fires, nocturnal illumination fires, general purpose cooking fires, roasting ovens, ceremonial fires and sometimes special hearths for manufacturing artefacts or carrying out clothes-washing (post contact); also fires to maintain fire (i.e., to save rekindling) and fires to deter malevolent nocturnal spirits.

The most common locations of night fires relative to sleeping position were at the feet or by the side. Fires were kept burning through the night for warmth in the cold months, and for driving mosquitoes away during and after the wet season. They were subtle environmental devices at night, carefully controlled in size, and differentiating the space inside and outside of shelters and camps by the presence and/or absence of light, even if there were no shelter structures to support this definition (as in a mosquito camp).

In established camps, cooking and other daytime fires were usually spatially separate from night warming fires. A cooking fire may serve at least one domiciliary group and possibly several adjacent groups if the occupants were close relatives. Most cooking is carried out on unlined camp fires either directly on the coals, or in the ashes. Roasting pits were used for large game. Roasting is a male-centred activity which occurred outside of those parts of the domiciliary space maintained by the women. Kinsmen often congregated during the cooking around the male householder, with the expectation that they may receive a share.
At first consideration, fires seem incompatible with custody? Maybe not, eg take the Alice Springs Cottage example of cooking bush food on open fires from time to time. This is feasible where there is no security risk. An historical example of fire usage in prisons occurred at the Aboriginal Prison on Rottnest Island in WA. Aboriginal prisoners constructed traditional shelters in the main outdoor compound and periodically burnt and rebuilt these structures. The literature suggests such a practice of controlled burning was for ‘health reasons’ (Green & Moon 1997), however it could have also been performed to ward off bad spirits associated with the shelters.

**Recommendation for Correctional Facilities:**

- Consider provision of fires in outdoor spaces where there is nil security risk from same; to function as focal hearths for small group gatherings.

**Single Men’s Camps**

In most large Aboriginal settlements, post and contemporary, one finds groups of single men living together in residential units or households. For example, in the Alyawarre camps of the mid-1970s, old men occupied their own single men’s residence or unkuntya, and there were a number of unkuntya for the young men. It was unpredictable however, in which of these four residences, the young men would choose to spend any particular night. Young single men were sexually mature but socially immature, and characterised by high mobility. They waited a decade approximately to obtain a wife. (Denham 1975, O’Connell 1979.)

The primary organising principle of Alyawarre single men’s groups was thus age, as opposed to kinship, ie. younger men versus older men’s camps. Kinship was a more dominant principle in the single women’s camp. Sometimes older men had dependant male children with them (O’Connell 1979). These principles still hold in many remote communities.

The functions of Single Men’s Camps are as follows:

(i) A night-time residence for the single men;
(ii) A day-time lounge area for all senior men in the settlement;
(iii) Dormitory for senior men who were visiting without families from other settlements;
(iv) A place where matters of common social, political and religious interest which cross-cut kin relationships could be discussed;
(v) The spatial focus of "male culture" for the entire camp;
(vi) The practising of dances;
(vii) Craft activities, tool manufacture and other kinds of activities requiring considerable space or continuity of placement from one day to the next are carried out in the men’s camp;
(viii) Formal and informal, meetings to discuss a wide variety of topics concerning current, religious law.

(after Tonkinson 1974:61, Binford 1986:547 as well as many personal observations).

Now we can consider jails to be large single men’s camps. Older men want their own cells to reflect these customary patterns - separate sleeping areas for older single men and younger single men. Day time is regarded as the time for old and young men to interact - this does not happen at night as we learnt at the Alice Springs jail. (Memmott and Eckermann 1999.)
Single Women’s Domiciliary Spaces

As is the case for men, single women form their own residential units in many customary Aboriginal settlements.

A single women’s shelter is known as an ‘alukere’ amongst the Arrerntic groups. Kin relationships in these households are normally close, eg. mothers, with daughters, sisters, and sister’s daughters (matrilineal emphasis). Writing on the groups at Warrabri (now Alekerenge), Bell (1984: 16) gives the Warlpiri term ‘jilimi’ for the single women's shelter, capturing its lineal organic character with the adjective "snake-like".

Categories of women in single women’s households:
(i) Older divorced women and widows;
(ii) Women of the co-wife category who are temporarily camping apart from their husbands - as the result of an argument or perhaps during their menstrual period;
(iii) Those whose husbands are absent from the settlement;
(iv) Unaccompanied female visitors who come from other settlements and customarily join a women's camp for the duration of their stay;
(v) Women who are ill;
(vi) Women who are in need of emotional support;
(vii) Girls who are too young or otherwise reluctant to go to their promised husbands;
(viii) During the day the women's group may be swelled by married women who visit to socialise.


The social function of these groups are thus numerous. Bell (1984: 16) and Keys (1999) make it clear that the group leaders are the senior women. They control the internal social structure and organisation, and their sphere of influence extended into religion and ritual. Women’s ritual is often planned and organised from within such domiciliary spaces. Women also, of course, go about their daily chores of food preparation, cooking and child care in these residential spaces.

A custodial environment with a substantial number of Indigenous women can be likened to a single women’s camp and the social organisational principles of such may well be operating to some extent with or without the knowledge of the staff.

Kinship and Avoidance

On the relation between the kinship system and everyday behaviour in camps, the anthropologist Elkin had the following to say:

"The kinship system...is not only the principal factor to be considered in arranging marriages, but also provides patterns of behaviour for all of life's situations, the patterns being represented or codified by the various types of relationship, such as father-son, mother's brother-sister's son and so on. The behaviour is both positive and negative; that is, a certain relationship demands that the two persons concerned perform certain..."
duties, or make certain gifts, often mutual; and it may also prescribe that certain things
not be done. The kinship obligations operated right through life and laid down what a
person must do or not do with regard to his various classes of relations from their birth,
through initiation to illness and death, and any complete description of the social and
ceremonial life of the tribe would show the important part played by kinship".
(Elkin 1938: 69.)

Thus there are rules for the sharing of and access to food and other material items and
resources. For example a woman had to provide food and water for her M.B. (mother’s
brother); and a man may have asked his B.W. (brother’s wife) for food or to obtain a drink
(Elkin 1938:71). Amongst these rules and obligations based on kinship, are some that
effected socio-spatial behaviour, i.e. the behaviour of people in spatial relation to one another
... either their relative spatial positions, their orientations, or the extent of their body contact,
seen as an expression of their particular social relations.

Rules of avoidance may effect everyday spatial behaviour, including which way one should
face in a small group setting, when one must leave a group upon the arrival of another, and
the necessity to sometimes pass information to another through a third person. Except for a
few commonalities, avoidance behaviour rules vary from region to region.

Prison spaces which will be effected by avoidance behaviour constraints include; dining
areas, recreation spaces and shared sleeping accommodation (see Memmott, Eckermann &
Reser 1999). The architectural design of dining and recreation spaces can cater for avoidance
behaviour, through offering individuals a choice of spaces to dine or exercise in, along with
providing direct access to adjacent outdoor spaces if required. Using low height moveable
screens or planting (at least above eye level when seated) to help individuals avoid eye
contact, may be effective if such communal spaces need to be a single volume.

Recommendations for Correctional Facilities:

• Examine the Indigenous concept and relevance of ‘family’, ‘household’, and ‘kin
groupings’; bearing in mind that many Aboriginal groups employ the concepts of
single men’s camps and single women’s camps, skin-groupings and generation
groupings.

• Carefully examine policies and architectural models in relation to prisoner
accommodation, as the use of single cells for Indigenous inmates may not be
appropriate in all circumstances. Some Indigenous inmates and communities may
prefer dormitory cells and a number of jurisdictions are currently allowing for
‘buddy cells’. This is an area which needs careful consideration and some depth of
further research.

• Male and female Indigenous prisoners need to be generally kept separate but may be
in same facility or within the same perimeter.

• Carefully consider options and policies with regard to choice of single or dorm cells,
when deciding the mix and number of cell types. Incorporate knowledge of size and
social profile of Indigenous prison population. As noted before, there is variance
between state jurisdictions concerning acceptability of dorm cells for Indigenous
inmates. If using Dorm cells they should be equivalent in area to the number of
single cells that would cater for the same number of inmates. (The elimination of
hanging points as a design principle can be reviewed in dorm cells).
• Alternatively consider single cells opening into a communal space for daytime use.
• Special accommodation to be provided for mothers with infants.
• Provide flexibility in meal settings eg. alternative options for small group gatherings, indoor and outdoor eating options.
• Ensure flexibility of space and seating for intimate visits (one on one) or for larger group gatherings.
• Adequate GPO locations to allow flexibility of furniture layout and rearrangement.

Sleeping Behaviour

The customary rules concerning the formation of nocturnal domiciliary groups will be relevant in facilitating sleeping behaviour in custodial environments. There exist preferred orientations for sleeping in certain areas eg head to east in Central Australia (Keys 1999). To force changes to this custom, may cause stress. Appropriate orientation facilitates good dreams, spiritual health etc. This is reflected in Alice Springs Jail visit - inmates moving mattresses in dorm rooms. Sleeping behaviours needs to be thought about in cross-cultural contexts. Flexibility for orientation of bedding is desirable.

Recommendations for Correctional Facilities:
• Accommodate choices of sleeping arrangements ie. (a) orientation of body, (b) elevated or on the ground.
• Avoid sleeping direct on concrete or other uncomfortable or thermally unsuitable surfaces.
• A choice of indoor or outdoor sleeping and ‘living’ spaces is also preferable.

The External Orientation of Behaviour

There is consistent reportage in the ethnographic literature for many regions, particularly in remote areas, of a high degree of external orientation from within domiciliary spaces. An example from Jigalong settlement:

"Aborigines prefer to spend most of their time out of doors. Apart from excretory and sexual activities, very little that an individual engages in take place outside the gaze of others. It is very important for each person to be able to observe much of what goes on around him, for in this way he [or she] can keep abreast of all developments in the ongoing relationships within the group and in activities which are being planned. For example, arguments and fights are invariably of interest and concern, not only because of the complex network of kin relationships that binds every individual to many others and involves expectations of aid and reciprocity, but also because such clashes, potentially, can rip a group apart.”
(Tonkinson and Tonkinson 1979: 202.)

Further reasons for external orientation:

(i) Knowing when a neighbour was about to apportion newly prepared food, in which case if one was in an appropriate kinship relation to receive a share, one would quickly move across to that individual’s domiciliary space (Hamilton 1972: 10).
(ii) To know who is approaching one's domiciliary space in case some severe restraint or avoidance relationship is required, in which case both individuals may take evasive action (Tonkinson and Tonkinson 1979: 202).

External orientation from within the domiciliary environment is a customary choice for surveillance etc. This is compounded by different concepts of cultural notions of privacy eg. to be alone could be suspicious. Classic cases of failure in Aboriginal housing do not take into consideration factors such as external surveillance. Verandahs in houses are important for externally oriented social gatherings. In addition to maintaining surveillance of the social environment it is also typical of customary behaviour to maintain visual monitoring of the natural environment (weather, landscape, tracks etc.).

There are a few historical examples of prisons in WA where a freedom to construct traditional shelters was allowed in external spaces (eg. the main courtyard of the Aboriginal prison on Rottnest Island), and where larger, communal cells were provided with additional surveillance openings for Aboriginal prisoners (eg. Greenough, Dongara and Bussleton gaols) (Eckermann 1997).

Recommendations for Correctional Facilities:

- Views to natural landscape (both inside and beyond the perimeter) from all spaces are beneficial. Consider orientation to views when positioning and orientating buildings and activity spaces (along with 'wire' security fences rather than walls to allow clear vision).
- Indigenous inmates prefer to maintain adequate sight lines from all spaces in their day-to-day activity pattern.
- 'Unlocked' cells to open to secure 'outdoor' areas.
- Choice of indoor and outdoor venues for activities (eg educational) and spatial flexibility.
- Provide a choice of indoor and outdoor venues for visitations.
- Adequate air flow is essential, and should be realised through 'passive' (non-mechanical) architectural design.

Maintaining Contact with Kin

Australian Indigenous cultures are characterised as having complex customary sub-systems of social organisation involving language groups, kinship, class systems and land-based social structures. Every individual is connected to a network of kinspersons and relatives that are generated through such sub-systems. These relationships contribute in fundamental ways to the social identity and security of individuals and groups. The relationships bring with them a range of obligatory behavioural roles and duties which need to be maintained to achieve social harmony.

This 'kinship maintenance' must desirably be fulfilled in custodial environments as well as in usual society, and undoubtedly contributes to the psychological well-being of detainees. Any ideology of 'normalisation' in custodial institutions should therefore place high value on visitor access and detainees' communication with their home communities.
Recommendations for Correctional Facilities:

- **Provide a choice of indoor and outdoor venues for visitations.**
- **Provide space in which children of visitors can play in the visiting area (consider supervision options).**
- **Consider limited overnight accommodation facility for visiting relative or Elder.**
- **Allow access and facilities for all Indigenous stakeholders, service providers and programs (one reason being to reduce risks of DIC), and ensure access to suitable spaces for private counselling and consultation.**
- **Electronic technologies are primarily beneficial for family link-up and education opportunities as opposed to any surveillance devices which remove prisoner contact with human supervision. The loss of such contact may increase prisoner stress, especially in isolated custody.**
- **Choose facility sites which are suitably located for both the anticipated Indigenous inmate population and access of associated families.**

Residential Dynamics and Death

There are widespread reports in the anthropological literature that after a death, shelters were dismantled and moved from the immediate vicinity for some months to discourage the spirit of the deceased from returning to its camp, which it was believed would happen frequently (eg. Tonkinson 1974: 44, 46).

O'Connell (1979: 111) writing on the Alyawarre camp at Pentetaryeme expands on this point of there being differing degrees of response to a death in terms of (a) the number of people involved, and (b) the distance they move. Both factors are dependent on the age and social status of the deceased. O'Connell also calculated that death was the most important cause of change in household location amongst the Alyawarre (O'Connell 1979: 111).

For the Warlpiri (as encountered by Meggitt), there appear to have been three distinct categories of response to a death dependent upon the stage of development of the individual:

(i) Nameless infants: shelter of deceased left standing and the household moves about a quarter of a mile away for a relatively short period;

(ii) Named children: shelter of deceased is burnt, neighbours' shelters left standing, and the group moves camp a few hundred yards for a relatively short period;

(iii) Adults: shelter of deceased burnt, neighbours shelters left standing, the group moves some miles to a new camp and cannot return until after a wet season has passed and the grass is green.

Rituals and ceremony concerning death continue to prevail in many communities and need to be considered in relation to Aboriginal living environments. Residences are abandoned until smoking ceremonies can purify and rid a house of bad spirits. Death in institutions is very important in terms of appropriate cultural responses - in prisons and hospitals this is a big issue. For example many old people are reluctant to enter the Alice Springs Hospital due to the many deaths that have occurred there and the collective presence of the spirits of the many who have died within.
**Recommendation for Correctional Facilities:**

- The Indigenous practices of inmates in responding to deaths, need to be carefully assessed. One aspect of this may be the need for special facilities in prisons for storing and viewing of a corpse.

**Room planning, Crowding and Privacy**

For traditional Aboriginal groups it has been well established that constructs of crowding and privacy differ markedly from Western norms. A designer must proceed with caution in deciding which activities are considered private, and whether such activities require separate rooms and restricted vision to such rooms. In the case of large household made up of a number of discrete sub-groups, between whom tensions may arise, consideration must be given to providing each sub-group with the degree of independence and privacy that may have been previously obtained in their self-constructed domiciliary space. Similarly the use of a bedroom by an entire domiciliary group does not necessarily constitute crowding for a traditionally oriented group.

**Living Environment - Design and Stress**

Perceived control over one’s environment is a desirable, if not a necessary pre-requisite for the mental health of the Aboriginal occupants of European designed houses and settlements. Reser (1979) makes generalisations concerning the detrimental effects of Western housing:

(i) A lack of ‘fit’ between environment and behaviour is a major source of stress, frustration, social disintegration, and adjustment problems.

(ii) Most of the psychological evidence would suggest that any type of extensive environmental change which alters the patterns and foundations of people’s everyday behaviour, is quite stressful and frequently traumatic.

(iii) Cumulative stress may lower people’s resistance to disease and any motivation to rectify their circumstances.

Reser presents 18 adjustments for Aboriginal people occupying houses that allegedly threaten control or perceived control. Current house models are often inadequate; they fail and are abandoned partly due to cultural ignorance on the part of the designers. However, alternative findings to Reser were produced at Mornington Island (Memmott 1979) and Numbulwar (Biernoff 1974) in the mid-1970s. Successful housing adaption occurred in the mid-1970s by the Lardil and the Nunggubuyu who have been successful in their adjustment to living in a permanent non-traditional spatial environment. This has been possible because existing Aboriginal values and social behaviour patterns have been utilised to modify the alien spatial environment of these mission settlements. The effect of this has been to create a distorted traditional Aboriginal settlement rather than a distorted European settlement. (After Biernoff 1974:8.)

Nevertheless it can be seen from the above that the stress created when one loses control over one’s environment may well be exacerbated in correctional facilities.
**Recommendations for Correctional Facilities:**

- All spaces to allow inmates an acceptable degree of control over their immediate environment with regard to airflow, views out, temperature, illumination, privacy.
- Consider potential use of external private spaces for prisoners experiencing shame and/or in need of stress relief.
- Address the various classifications of inmates with appropriate levels of security. Flexibility for low security prisoners should not be sacrificed to meet the needs of a minority of higher level security prisoners.
- There must be adequate representation and recognition of Indigenous culture in the architectural design of correctional facilities for Aboriginal and Torres Strait Islander people.
- Consider the option of ‘time out’ cells to allow relief from mainstream prison life for certain at-risk categories (needs medical advice for concept development).
- Consider incorporating a meeting place for Indigenous prisoners in which they have a relatively high level of environmental control; possibly indoor and outdoor solutions. Consider involvement of inmates in design and construction/landscaping of such a place.
- Provide a positive environment for visitors, in order to reduce both visitor and inmate stress.
- The induction space is the first point of contact between the prison staff and the new prisoners and occurs when the prisoners may be psychologically most vulnerable, so incorporation of culturally-appropriate architectural furniture and furnishings (inc. wall decoration, videos, tea drinking, smoking areas) is beneficial to the well-being of new inmates.
- The process of induction must be humane and the architectural setting must reflect this.
- Consider the use of videos to inform (and preoccupy) inductees on prison life and process.

**Summary to this Point**

The behavioural use of domiciliary space involves distinct types of household groups and subgroups, typical diurnal/nocturnal behaviour patterns for different seasonal periods, as well as characteristic sociospatial structures. Culturally distinct behaviour includes forms of approach and departure behaviour, external orientation and sensory communication between domiciles, sleeping behaviour and sleeping group composition, cooking behaviour and use of hearths, storage of artefacts and resources, and response to the death of a householder.

Corrective environments can be likened to large single men’s camps or single women’s camps. In designing such facilities, architects and administrators should be sensitive to those culturally specific aspects of Aboriginal domiciliary behaviour employed by the inmates of those facilities. These behaviours should not be taken for granted but need to be assessed on a regional basis.
General Recommendation for Correctional Facilities:

- Architectural scale and forms, and choice of materials and finishes, to be informed by knowledge of preferred Indigenous lifestyles. Consider domestic-scale buildings and outdoor settings in order to humanise scale, rather than large-scale, single-building complex types. Buildings for Indigenous inmates to be preferably single-storey.

Consultation in Design

A credible and effective process of architectural consultation with client groups and the wider community is essential for the provision of culturally-appropriate architecture. Where the client group is not an Indigenous organisation (as is often the case in prison design) there needs to be informal interactions between the Architect(s) and an Indigenous consultative group during the design development stages (including brief preparation) (Memmott & Reser 1998: 3). Deciding where to site a new facility will be one of the most important issues to be addressed through community consultation.

Such a consultation dialogue could be established through group workshops conducted by individuals familiar with Indigenous culture and lifestyle, along with preferred consultation methods in Indigenous communities (see Heppell 1977, Lochert 1997, Memmott 1997). This dialogue needs to be ongoing throughout the design process to provide feedback and further discussion. Where an architect works in collaboration with an Indigenous community and is given knowledge to inform their design process, use of such information must be carefully thought about and the appropriate permission gained (Memmott 1996: 25).

Recommendations for Correctional Facilities:

- 'Aboriginalising' of correctional facilities whilst considered valuable, should be monitored and directed by the Indigenous community.

- Indigenous involvement in architectural brief preparation is essential. This involvement should preferably be drawn from: (i) Indigenous staff in the correctional system, (ii) Indigenous inmates, (iii) local traditional owners, (iv) local leaders and Indigenous organisation representatives.

Use of Aboriginal Signs

“There are extensive domains of Aboriginal environmental knowledge and cognitive styles and meaning systems, which provide great potential in generating semantic ideas for architectural expression” (Memmott 1997: 59). Such signs and symbols of Indigenous identity will often be sourced from environmental and religion-inspired knowledge, however they may also come from the processes of resistance, oppression and cultural adaption undertaken throughout contact history (Memmott 1997: 60).

It is usually preferable to draw semiotic references from the local Indigenous culture rather than from groups more distant from the proposed facility site. The project architect has an ethical obligation to consult with and obtain permission from the local Traditional Owners before using signs and symbols sourced from Indigenous knowledge (Memmott 1997: 60). However, it is also important to match architectural signs used to communicate Indigenous identity and meaning, with the knowledge base of the cultural sub-groups of users (Memmott 1997: 60).
Prisons tend to accommodate individuals from surrounding regional communities (which may be greatly distanced from one another in remote areas), and therefore there may be different cultural beliefs and practices amongst the user groups. This is where early consultation and identification of the likely user groups is essential, as transposing of Indigenous concepts from one region to another will need responsible “consultation amongst the host and donor...group, to ensure that such a transference is ethically and legally acceptable (in terms of intellectual property rights) as well as being semiotically relevant” (Memmott 1997: 60).

The use of Indigenous signs and symbols as sources of inspiration for the architectural design of prisons (in both two and three-dimensional representation), will help Indigenous people (prisoners, staff and visitors) readily perceive that the staff and the system are sensitive and aware of Indigenous culture. This in turn will create a culturally-appropriate environment which will greatly help in reducing stress levels for all people using or visiting the facility.

**Recommendations for Correctional Facilities:**

- Embrace Indigenous spirituality and culture (being that which is relevant to the inmates) as key architectural design generators for new correctional facilities.
- Architectural symbolism (literal or implied) should only result from an informed and culturally-appropriate design process.
- Avoid tokenism in the design process, ie in-building random Indigenous symbols simply for the sake of having them.
- The use of natural materials and organic designs may promote positive links with the natural environment, and are worth exploring as an architectural approach.
- Built environments can respond to the cultural identity and spirituality of Indigenous inmates.
- Internal layout, circulation and links between major spaces to be easily read for way finding and orientation.

**Deaths in Custody**

Indigenous people have been dying in custody ever since such restrictions were imposed on them. It is important to note that Indigenous deaths in custody are certainly not all suicide related (Reser 1989: 43), with historical records indicating that preventable disease and physical aversion to detention environments were the main causes for deaths in the nineteenth and early twentieth century (Graham 1989: 160).

The much publicised Royal Commission into Aboriginal Deaths in Custody (RCADIC) of 1987-1991 was the fifth such inquiry since 1884 (Eckermann 1997: 38-39). The recommendations from this RCADIC were extensive (see Johnston 1991) and have been progressively implemented by state prison authorities throughout the past decade (see Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner 1996). Whilst the recommendations highlight the urgent need for culturally-appropriate facilities and programmes, there has been an excessive focus on eliminating hanging points in cells.

This focus on eliminating hanging points has resulted in further internalisation of prison cells, with current designs incorporating centrally controlled air-conditioning systems and fixed glazing panels. The design and provision of such cells is surely at odds with the preferred
Indigenous lifestyles outlined earlier in this paper. Interestingly, new dormitory facilities in a northern prison literally have many possible hanging points but nevertheless provides comfortable and familiar accommodation for the Indigenous detainees.

Control over the immediate environment (including natural ventilation, lighting and access to secure outdoor areas) along with the option of sharing a room with other prisoners, seem far more appropriate than making cells 'suicide-proof'. The highest levels of stress and uncertainty for detainees are often evident during the induction process and the first few days of arrival. Special culturally-appropriate facilities for prisoners considered to be 'at-risk' during such times (and others) may be required.

Recommendations for Correctional Facilities:

- Total observation of inductee must be possible at all times.
- Ensure at-risk inmate accommodation is adjacent to or in close proximity to the medical area and staff, and that there is ease of observation from the latter area to the former area.

Checklist of Architectural Brief Considerations for the Design of Correctional Facilities used by Indigenous Inmates

The following material is a summary of the “Indigenous Cultures and the Design of Custodial Environments”, National Workshop findings. This list may be incorporated into future architectural briefing documents in order for the designers to be made more aware of, and able to address specific cultural considerations for Indigenous inmates. It has been compiled subsequent to the Workshop proceedings and is intended as a guide to a strategic approach as opposed to a definitive statement.

The findings are divided into; (1) General Design Principles and Objectives, and (2) Specific Program Requirements:

1 General Design Principles and Objectives

- There must be adequate representation and recognition of Indigenous culture in the architectural design of correctional facilities for Aboriginal and Torres Strait Islander people.

- Approach each design project independently, in order to recognise the scores of cultures which exist amongst Indigenous people (as well as non-Indigenous people) across the country, with varying systems of laws and customs. There is no one solution. This will involve building a social profile of the inmates to understand their composition in terms of distinct cultural groups.

- ‘Aboriginalising’ of correctional facilities whilst considered valuable, should be monitored and directed by the Indigenous community.

- Indigenous involvement in architectural brief preparation is essential. This involvement should preferably be drawn from; (i) Indigenous staff in the correctional system, (ii) Indigenous inmates, (iii) local traditional owners, (iv) local leaders and Indigenous organisation representatives.
• Embrace Indigenous spirituality and culture (being that which is relevant to the inmates) as key architectural design generators for new correctional facilities.

• Architectural symbolism (literal or implied) should only result from an informed and culturally-appropriate design process.

• Avoid tokenism in the design process, ie in-building random Indigenous symbols simply for the sake of having them.

• The use of natural materials and organic designs may promote positive links with the natural environment, and are worth exploring as an architectural approach.

• Examine the Indigenous concept and relevance of ‘family’, ‘household’, and ‘kin groupings’; bearing in mind that many Aboriginal groups employ the concepts of single men’s camps and single women’s camps, skin-groupings and generation groupings.

• Ensure design and choice of accommodation and recreation spaces reflect preferred Indigenous lifestyles eg. outdoor provision of shade, sitting surfaces, wind protection.

• Choose facility sites which are suitably located for both the anticipated Indigenous inmate population and access of associated families.

• Carefully examine policies and architectural models in relation to prisoner accommodation, as the use of single cells for Indigenous inmates may not be appropriate in all circumstances. Some Indigenous inmates and communities may prefer dormitory cells and a number of jurisdictions are currently allowing for ‘buddy cells’. This is an area which needs careful consideration and some depth of further research.

• Allow access and facilities for all Indigenous stakeholders, service providers and programs (one reason being to reduce risks of DIC), and ensure access to suitable spaces for private counselling and consultation.

• Electronic technologies are primarily beneficial for family link-up and education opportunities as opposed to any surveillance devices which remove prisoner contact with human supervision. The loss of such contact may increase prisoner stress, especially in isolated custody.

• The Indigenous practices of inmates in responding to deaths, need to be carefully assessed. One aspect of this may be the need for special facilities in prisons for storing and viewing of a corpse.

• Consider potential use of external private spaces for prisoners experiencing shame and/or in need of stress relief.

• Address the various classifications of inmates with appropriate levels of security. Flexibility for low security prisoners should not be sacrificed to meet the needs of a minority of higher level security prisoners.

• Built environments can respond to the cultural identity and spirituality of Indigenous inmates.
2 Specific Program Requirements

There will undoubtedly be further, specific program requirements when designing correctional facilities for Indigenous inmates. The following material only covers the extent of discussions between Workshop participants.

- Master Planning (including links and perimeter treatment)
- Accommodation (single cells and dorms)
- Services (educational facilities, communal dining and recreational facilities)
- Visiting
- Induction (comprised of: receptions, needs assessment and orientation)
- Medical

2.1 Master Planning

- Architectural scale and forms, and choice of materials and finishes, to be informed by knowledge of preferred Indigenous lifestyles. Consider domestic-scale buildings and outdoor settings in order to humanise scale, rather than large-scale, single-building complex types. Buildings for Indigenous inmates to be preferably single-storey.
- All spaces to allow inmates an acceptable degree of control over their immediate environment with regard to airflow, views out, temperature, illumination, privacy.
- Views to natural landscape (both inside and beyond the perimeter) from all spaces are beneficial. Consider orientation to views when positioning and orientating buildings and activity spaces (along with ‘wire’ security fences rather than walls to allow clear vision).
- Indigenous inmates prefer to maintain adequate sight lines from all spaces in their day-to-day activity pattern.
- Internal layout, circulation and links between major spaces to be easily read for way finding and orientation.
- Male and female Indigenous prisoners need to be generally kept separate but may be in same facility or within same perimeter.

2.2 Accommodation

- Carefully consider options and policies with regard to choice of single or dorm cells, when deciding the mix and number of cell types. Incorporate knowledge of size and social profile of Indigenous prison population. As noted before, there is variance between state jurisdictions concerning acceptability of dorm cells for Indigenous inmates. If using Dorm cells they should be equivalent in area to the number of single cells that would cater for the same number of inmates. (The elimination of hanging points as a design principle can be reviewed in dorm cells).
- Alternatively consider single cells opening into a communal space for daytime use.
- Accommodate choices of sleeping arrangements ie. (a) orientation of body, (b) elevated or on the ground. Avoid sleeping direct on concrete or other uncomfortable or thermally unsuitable surfaces.
• A choice of indoor or outdoor sleeping and ‘living’ spaces is also preferable.
• Adequate air flow is essential, and should be realised through ‘passive’ (non-mechanical) architectural design.
• Avoid low ceiling heights.
• Cell arrangements to cater for placement into social groups (eg. skin groups, language and ‘age’ groups) where appropriate.
• ‘Unlocked’ cells to open to secure ‘outdoor’ areas.
• Adequate GPO locations to allow flexibility to furniture layout and rearrangements.
• Consider the option of ‘time out’ cells to allow relief from mainstream prison life for certain at-risk categories (needs medical advice for concept development).
• Special accommodation to be provided for mothers with infants.

2.3 Services

• Choice of indoor and outdoor venues for activities (eg educational) and spatial flexibility.
• Consider provision of fires in outdoor spaces where there is nil security risk from same; to function as focal hearths for small group gatherings.
• Provide flexibility in meal settings eg. alternative options for small group gatherings, indoor and outdoor eating options.
• Consider incorporating a meeting place for Indigenous prisoners in which they have a relatively high level of environmental control; possibly indoor and outdoor solutions. Consider involvement of inmates in design and construction/landscaping of such a place.

2.4 Visiting

• Provide a positive environment for visitors, in order to reduce both visitor and inmate stress.
• Provide a choice of indoor and outdoor venues for visitations.
• Ensure flexibility of space and seating for inmate visits (one on one) or for larger group gatherings.
• Provide space in which children of visitors can play in the visiting area (consider supervision options).
• Where body searches are deemed necessary for security purposes, they need to be done in separate rooms affording maximum privacy.
• Consider limited overnight accommodation facility for visiting relative or Elder.
2.5 Induction

- The induction space is the first point of contact between the prison staff and the new prisoners and is encountered when the prisoners may be psychologically most vulnerable, so incorporation of culturally-appropriate architectural furniture and furnishings (inc. wall decoration, videos, tea drinking, smoking areas) is beneficial to the well-being of new inmates.

- The process of induction must be humane and the architectural setting must reflect this.

- Appropriate sizing of rooms and spaces which accommodates variable flows of incoming prisoners.

- Total observation of inductee must be possible at all times.

- Consider the use of videos to inform (and preoccupy) inductees on prison life and process.

2.6 Medical

- Ensure at-risk inmate accommodation is adjacent to or in close proximity to the medical area and staff, and that there is ease of observation from the latter area to the former area.
Bibliography


Eckermarm, K. 1997. Built Environments and the Detention of Aboriginal and Torres Strait Islander People, Bachelor of Architecture Thesis, Department of Architecture, University of Queensland.


Memmott, P. 1988 "Aboriginal Housing, the State of the Art (or the Non-State of the Art)" in Architecture Australia, June, pp. 34-47.


Reser, J. 1989a. "Aboriginal deaths in custody and social construction: a response to the view that there is no such thing as Aboriginal suicide", in Australian Aboriginal Studies, Number 2, p.43-50.


COMPLIANCE VERSUS ACTION

David Rathman
Division of State Aboriginal Affairs, SA

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
The Division of State Aboriginal Affairs is a small policy focussed agency within the broader Department of Environment, Heritage & Aboriginal Affairs, South Australia.

DOSAA has a role in encouraging best practice interventions in the Justice System for the benefit of Aboriginal people. Unfortunately Aboriginal people are the most imprisoned people in the country and ten years on from a Royal Commission into Aboriginal Deaths in Custody, one Ministerial Summit on Indigenous Deaths in Custody and numerous attempts by state agencies to amend legislation and revise policies and practices within the criminal justice system, the profile of incarceration and detention has changed little. I pose the question—has there been genuine systemic change through real action or have agencies merely become compliant, compliant to the extent that initiatives introduced are worthy of reporting about to Government and being seen to be doing something, an activity trap of compliance that many of us become embroiled in from time to time.

In South Australia, the model for planning, implementation and monitoring Aboriginal justice outcomes has been via the following methods:

**Aboriginal Justice Interdepartmental Committee**

In 1989 the South Australian Government set up the Aboriginal Justice Interdepartmental Committee to respond to the Royal Commission into Aboriginal Deaths in Custody Interim Report. The community saw a need for an independent monitoring body and the Aboriginal Justice Advocacy Committee was established in July 1994. The major work of the AJIDC Committee is conducted by the five Working groups. They are Coroner's Issues, Non Custodial Sentencing Options, Policing Issues, Alcohol and Drugs and Custodial Health Working Groups.

**Criminal Justice Strategic Framework**

In October 1996, the Justice Chief Executives' Forum embarked on a comprehensive strategic planning exercise that aimed to set the framework for the Criminal Justice System in South Australia for the next 5-10 years, Aboriginal over-representation in the System has been identified as a key issue. The document, signed off by the Chief Executives of Justice and Attorney General’s Office, Correctional Services, Division of State Aboriginal Affairs, Family and Community Services, the State Courts Administrator and the Commissioner of Police, is now being implemented by the Justice Strategy Unit of the Attorney General’s Department.

**Aboriginal Justice Strategic Framework**

The Division of State Aboriginal Affairs has been working on the development of an Aboriginal justice strategic framework as a further development of the Criminal Justice Framework document, focussing on matters relevant to the Aboriginal community, Aboriginal prisoners, offenders and their families. It identifies links between criminal and social justice by canvassing alternative models of sentencing practices to promote non-custodial sentencing options for Aboriginal people.

A number of initiatives to keep Aboriginal people out of the criminal justice system that are in the conceptual phase are embodied in the framework document. The development of this document is being guided by a Task Group with inter-agency participation.
In examining whether the implementation of responses to the recommendations of the Royal Commission into Aboriginal Deaths in Custody has made an impression on the Aboriginal over representation in custody, I invite your attention the following facts:

**Juveniles in Secure Care**

The percentage of young Aboriginal people as a proportion of the total population in secure care remains at a high level ie an estimated 25% in 1997/98. While the rate of detention of non-Aboriginal youth has declined in recent months, this has not been the case for Aboriginal youth.

**Receptions into Adult Prison Custody**

The number of admissions to custody continues to decline for both Aboriginal and non-Aboriginal adults. However Aboriginal receptions into custody still comprise 26% of all receptions into custody in 1997/98. Aboriginal over-representation is most pronounced for those on remand.

**Health and Cultural Well Being, Education, Employment**

Three front-end focuses are important to secure the future relatively free of incarceration, Health and Cultural Well Being, Education, Employment or independence.

Health and Cultural Well Being is necessary to ensure the Aboriginal people are able to take up opportunity. This requires substantial effort to reduce the disadvantaged suffered because of ill health.

Reviving positive cultural experience in the community will ensure the Aboriginal individual builds a positive self-image of who they are leading to a strong sense of well being.

Education in the fundamentals and the need to ensure Aboriginal children are better prepared for the journey of learning will create the basis for success.

At the Ministerial Council for Aboriginal and Torres Strait Islander Affairs held in Alice Springs on 10 September 1999, Dr David Kemp, Commonwealth Minister for Education, Training and Youth Affairs presented the following statistics:

**Only 32% of Indigenous students remain to Year 12**

Only 32% of Indigenous students remain at school from the commencement of their secondary schooling to Year 12, compared to about 73% of non-Indigenous students in 1998.

However while access and participation rates are improving, the achievement of educational outcomes still has a long way to go.

For example, Indigenous students record markedly lower levels in all academic subjects. Of particular concern is their poor literacy achievement which was reinforced by the findings of the 1996 National School English Literacy Survey.
Less than 20% Year 3 Indigenous Students meet reading standards

Approximately 70% of all students in Year 3 surveyed met the identified performance standards in reading and writing. Less that 20% of students in the Indigenous sample met the reading standards and less that 30% of students in the Indigenous sample met the writing standards. In addition the lowest achieving year 3 Indigenous students make little or no progress over the following two years. There was a similar trend for year 5 students.

This poor performance is not just a reflection of socio-economic and English language background, since 60 to 70% of year 3 students from low socio-economic backgrounds and just over 60% with a language background other than English met the reading and writing standards.

Year 12 Retention Rate for Indigenous Students is less than half non-Indigenous Rate

In 1998, 83% of Indigenous students remain in schooling to year 10, but only 32% to year 12 compared to 72% for non-Indigenous students. These rates vary considerably across the country.

For example, program data shows that the apparent retention rate for Indigenous students to Year 10 in some parts of the country is justice over 50% in 1997, compared to just over 80% for all Australia Indigenous students and compared to just under 1005 for non-Indigenous students.

If you are going to reduce the numbers in the juvenile system, we must turn the situation around.

Employment looms as a challenge and as the situation becomes worse for non-Aboriginal people, it becomes a potential catastrophe for Aboriginal people.

Jobs for the individual is the most tangible means to self-determination in the Australian community.

Independent economic development will lead to greater levels of self-management.

For the justice system to be impacted upon substantially the underlying issues must be addressed, although the justice system itself is capable of a shift.

Looking to the Future

I see the promotion of Aboriginal Community Justice as an important and critical threshold that we must jointly move towards if indeed our desire is to bring about a sustainable reduction in the burgeoning prison population this country is facing. Lets also not forget that Aboriginal society has its own rules and laws. Any consideration of Aboriginal peoples involvement should take account of urban cultures morals and beliefs.

Community partnerships with the criminal justice system may present previously untapped resources, skills and community infrastructure that can assist in establishing programs to address the underlying issues that bring Aboriginal people before the criminal justice system. The Division prepared a Community Justice Scoping document which explores the prospect for a structured relationship between statutory and community responsibility to encourage partnerships.
I want to encourage more talking up of this business of community justice. The Division arranged a Roundtable on this very subject in August this year with great participation from the community, state agencies, academia and the judiciary. I know there is goodwill in the systems to do business differently when dealing over representation on Aboriginal people.

My suggestions for best practice models on intervention include:

- Securing broader government/community support for a range of innovative justice initiatives.
- Pursuing legislative & administrative reform in key areas eg the move towards drug courts.
- Encouraging greater innovation by the South Australian legal system in accepting elements of Aboriginal community law. Contemporary applications of Aboriginal community law are being practiced at the Pt Adelaide Magistrates Court on Aboriginal Court Day. Every fortnight an Aboriginal community representative is invited to sit alongside the Presiding Magistrate, Chris Vass to hear Aboriginal cases. Failure to attend has reduced dramatically and as well the Magistrate reports being presented with important information that he otherwise would not have any access to.
- Responding to the Ministerial Summit's communique to encourage greater partnerships with the Aboriginal community and for communities to take greater responsibility for addressing the imbalance caused by offending behaviours.

To quote Supreme Court Justice Mullighan at a recent Aboriginal Community Justice Roundtable:

"We might consider that after all, what is worse, a form of traditional punishment that inflicts injury and pain for a short time or a form of punishment that inflicts isolation, loss of liberty and confinement in a small room for many years. We could involve the community in the essential decisions as to whether to prosecute the determination of guilt and the fixing of punishment in circumstances even though our system demands a procedure that is incompatible with those notions. We could involve family & community authority in the supervision of offenders in the probation system even though those persons may not be employed by government. We could involve the community on the decisions about the welfare of a child, rather than leave that to only white judges and magistrates."
THE WHITE WALL SYNDROME: AN INDIGENOUS FRAMEWORK FOR PRACTICE OPERATING WITHIN THE WOMEN’S PRISON

Debbie Kilroy
Sisters Inside Inc, Qld

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Sisters Inside is a community based organisation working with women in South East prisons. Our management committee is advised by women in prison - ex prisoners and women from the community who are interested in advocating for the human rights of women in prison. Sisters Inside has 7 years professional practice working with women in prison and the women involved have over 50 years experience of life in prison. Today I will look at how the “White Walls” of Brisbane Women’s Correctional Centre create a boundary to all outsiders. How the “White Walls” create the culture of the silenced woman. The “White Wall Syndrome” feeds into the culture within these walls that women live in, day in day out. It is a multi faceted complex, dynamic system and is impossible to present a complete picture of the culture in a 20 minute paper. Therefore I will present a broad overview, as a starting point, as a basis for you to begin to understand the complexity.

Once entering the prison you are inducted into this culture, you are usually unaware of the process. Your crime and length of sentence will usually determine where you are placed within the culture. It will prescribe how you will survive or not survive your prison sentence. Whether you are accepted by the prison system or ostracised. The women and correctional officers, named screws in this culture and for the rest of this paper I will continue to use the terminology screw not as a derogatory term but to remain consistent with prison culture. Also the term Screw does not include professional staff and management, it refers only to custodial officers. Women prisoners and Screws are responsible for maintaining the life force of the prison. If anyone tries to change the culture they will be silenced or removed through a range of protective mechanisms.

This paper will continue to explore the culture of the women’s prison and explore how the Indigenous Women’s Transition Program breaks through the culture and supports Indigenous women through the integration process back into their families and communities.

Despite the diversity of ages and cultural backgrounds represented in the prisons in South East Queensland, Sisters Inside is of the belief that Brisbane Women’s Correctional Centre constitutes a distinct community of its own. The women generally share common links in that they are from poorer socio economic backgrounds, have a low educational attainment, and usually have a history of abuse and sometimes of previous incarceration and institutionalisation. Whether as children they were adopted, fostered, or orphaned. Young people from these backgrounds find themselves in care, or detention typically they have experienced domestic violence, abuse and poverty. The Indigenous women also have an ongoing experience of racism.

The women in prison who do not come from a poorer socio economic background and who do not have a low educational attainment do share the history of abuse be it emotional, physical verbal and or sexual. Approximately 85% of women in South East Queensland prisons have experienced sexual violence and over 85% are victims of domestic violence and many return to the violent environment when released from jail. The other commonality that women experience is motherhood, nearly 80% of women in South East Queensland prisons are mothers with at least 2 children. Abuse and motherhood are the links that enable women to connect on a very intimate level. However, the most significant link is that they are all in prison.
For the period of their incarceration the women are closer “neighbours” than any comparable in the outside community. They work, eat, sleep and spend what leisure time is available interacting with the same people everyday. The prison setting provides the women with their housing, work environment, social environment and all the material necessities of life. Though women are isolated from the external world, involuntarily, in some respects it could be argued that its characteristics parallel geographical isolation.

To explain where women and screws fit into the culture is very complex, however we will attempt to present an overview which will give you some sense of the culture and its impact. There are many overlaps and sub systems.

A woman’s sentence will usually determine how she will be treated within the culture. There are no clear boundaries about who is a long termer and who is a short termer. However, there are clear cultural norms that identify where a woman will be placed within this system. If you are a lifer (a woman sentenced to life - 16 years before you can apply for parole) you will usually be accepted into the long termers group. However, if you are actually sentenced to 16 years but not a life sentence this does not automatically mean you are accepted into this group. There is a clear delineation between the two sentences. Once the lifers ‘suss’ you out and they believe “your okay” you will be accepted and initiated into the long termers group. Some of the provisions to be accepted are that a woman would have to prove that she can stay in control of her feelings, not show anger outwardly unless controlled and directed to management on issues that are affecting other women, their crime is not against children, and she is not a “dog” (does not betray confidences and adheres to the code of silence).

If you are a woman in prison or a screw that tries to change the culture you will be isolated, eventually silenced and in some cases threatened with passive or overt violence. Women serving short-term sentences usually show grief once imprisoned however they learn quickly that this is not accepted within the culture.

The woman who shows her emotions through crying in prison will be labelled as a “sook” or weak and told to:

“snap out of it cause you only have a short sentence” -
“what are you whingeing about, how long you got?”

The short termer women who shows emotion through crying will gain very limited support from other women in prison or screws. Within this culture there is very little respect given to a short termer whinger. A woman who shows emotion through anger will also be isolated. This will prove to the other women and the screws that you are not together, you are not in control. It is crucial that you stay in control in this culture, as the consequences are severe. The consequences received if you are a woman that shows anger is by being breached (this is a disciplinary procedure where you are punished). Breaches are used as a behaviour modification technique, basically a woman is punished for her behaviour if not acceptable by the screws. If breached a woman can be locked away in isolation in the DU (detention unit for up to 7 days) if anger is outwardly expressed. Anger can be expressed in many ways that are detrimental to short termers for example through “blood letting” (self harm) so the anger can be released through the slices cut into the woman’s arms. Total desensitisation of the whole body is another way of dealing with anger. Unlike in male prisons anger is rarely expressed in overt physical violence.
Desensitisation is the primary coping method that long termers use to prove that they are in control so they are accepted within the culture. Ironically long termers are allowed emotions of anger and sorrow whilst short termers are ostracised for it. However these emotions can only be controlled and not overtly shown to everyone in the prison. Individual anger can be shown within the long termers group and the group will offer support to the woman and attempt to problem solve the issue around the anger. Individual sorrow through crying is also allowed if it is pain and grief that is shared by most of the long termers - for example - one of their children is ill and the commonality of the loss of their role as mother is shared. This display of emotion is controlled and outsiders - short termers women or screws - are not privy to the discussion or allowed to share what their grief and pain is like for them as mothers. If an outsider tries to join the process desensitisation will take over and the long termers will shut down the emotion. Exclusion from the long termers group is once again enforced through protective mechanisms.

If a screw tries to make changes to the culture the protective mechanisms will also be used to isolate them or they will be threatened. The screw will choose to either resign or conform to the culture. In 1990 when a murder happened in Brisbane Women’s Correctional Centre many staff who were affected emotionally by the murder were labelled “weak”. They took stress leave for lengthy periods of time and because they knew they could not survive this harsh culture most of these staff resigned. There is very limited respect and support for the “weak” from other screws and the women in prison.

There are different sorts of power within the culture. There is official power which is attached to a person’s position of employment and there is real power which is usually unofficial and held by the long termers and screws within this culture. A screw has more immediate power than a person does in a management position. A person in a middle management role stated recently “when I was a screw years ago, I had more power within the prison - now that I am in a management role I have hardly any real power. I have the power within my role but I am made accountable for everything I do and I can loose my job if I f... up. Years ago I knew who was doing what, where and when and we had the run of the show, we could breach women, lock them up when we choose and loose things like the mail and requests from the women as we choose. No one could do a thing to us because we had the ‘real’ power. Management would make their threats to us and say they were going to change the prison culture but they never could because we knew we would be around a lot longer than them and we held the power”. As another screw said with regards to new managers coming into the prison and having changes planned that “it doesn’t matter they come and they go just like all the rest and we’ll still be here - nothing has changed in the 20 years I’ve been around”. When I continued to explain that the manager is determined to change the culture and asked if anything is changing he replied “look nothing changes it’s the same shit different depths”. There is a huge resistance from long termer screws to change the culture.

Within the culture the screws also maintain the short termer - long termer separation of the women and between themselves. They play the women off against each other and this maintains the constant tension between the two groups of women. If you are a screw who has been part of the prison for many years and are accepted by the other screws your role is to ensure that constant harassment is inflicted on short term women. The long term screws’ role is to maintain pressure on the short term screws so they conform to the culture also. However, the screws (short termers and long termers) will not harass the long termer women. They behave differently in all their interactions with them. The long termer women will usually be shown respect and left to their own devices as long as what they do does not impinge on the screws. The principle being “you stay out of my way I’ll stay out of yours”.

4
The process screws use to play off long termer women against short termer women is to carry stories about who is whinging and who is being breached for anger related behaviours for example self harm, suicide attempts. One of the many other ways screws play each group off is by telling the long termers who is dogging on other women in prison whether it is true or not. The stories are made up to suit their power play in maintaining the culture through separation of the groups. This creates a strong bond between long termer women and the long termer screws.

Aboriginal and Torres Strait Islander women are a part of this culture outlined above however a subsystem within this complex prison culture on a whole remains within their own culture. One of the major components of this culture is respect for the elders. Younger Aboriginal and Torres Strait Islander women respect and relate to the authority of the older women. Younger Aboriginal and Torres Strait Islander women also give this respect for elders who are not indigenous women. Young women have been known to stand up for and defend older women, of any race if they are being disrespected or abused by women inside especially long termers. However this elder respect is not directed towards the screws.

The culture at Brisbane Women's Correctional Centre segregates all women and is maintained by "long termer" and "short termer" women and screws. Within this culture there is very limited support or opportunity for any individual woman to develop new strategies that have a lasting effect and that are relevant to her survival when she is released back into her community. They are rarely able to speak up for their own "best interests". The term "best interests" meaning each individual woman identifying what she needs and how she wants to address her concerns and issues.

Unless the "white walls" are broken down it is impossible for a culture to evolve where women are not abused. Where they are seen as individuals. They are heard and the silence can be broken.

Sisters Inside's Indigenous Women's Transition Program attempts to break down the White Wall Syndrome by working with both long termers and short termers as individuals not subgroups within the culture.

The aim of the Indigenous Women's Transition Program is "to provide intense support to indigenous women as they reintegrate into community after a period of incarceration."

The objectives are to

(a) Reduce recidivism and

(b) Reduce the hardships faced by indigenous women, their children and families during this time.
To do this successfully it is necessary to work with the indigenous women during every transitional stage of their incarceration experience. We have identified the following significant stages:

1. Entry To Prison
2. Remand
3. Sentencing
4. Appeal
5. Movement between blocks
6. Movement within blocks
7. Relocation to another prison
8. Work Release
9. Home Detention
10. Immediate Pre-release
11. Release
12. Post Release (this is the most challenging stage an indigenous woman will face)

As well as the above there are other significant events which require adjustments like sickness or death within the woman’s family or suicide or self-harming in a prison block.

There is no set path for movement through the system and no set responses to the events that occur at different stages. Each indigenous woman’s experience of prison is different and unique to her alone. The prison culture and the indigenous women’s place in the culture impacts on her experience, as does her personal coping mechanisms, her life before prison and her outside support system during incarceration.

It is not only incorrect to make generalisations about the impact of defined stages on indigenous women it is unjust and detrimental to the women’s development and dangerous for her and other women. For example there are many within the prison system and society who would claim that entry to prison to begin a sentence is more traumatic for first offenders than for indigenous women who have been incarcerated before either as an adult or juvenile. This rationale is as unfounded and as inaccurate as the myth that a nun would be more traumatised by being raped than a prostitute is. The depth of trauma cannot be measured by the event alone. Stereotyping and judging an indigenous woman’s response to an event by nature of her occupation or past, constitutes abuse.

As previously illustrated the culture of the women’s prison is dynamic and complex. It is not a culture that exists only in Brisbane Women’s prison. While more intense there, it is also alive and well in each of the other prisons. There are still only two types of women, long termers and short termers. What is different is most of the women who are long termers at Numinbah and the other centres would not necessarily be accepted as long termers inside BWCC. However, most Aboriginal women serve their time in BWCC and do not move through the system. There are a number of reasons for this for example the distance from family, women often choose not to go to Numinbah as it, is over 100 kilometres away from Brisbane. There seems to be a level of institutional racism in the system. Prison authorities bemoan the fact that Aboriginal women do not like to be moved as individuals therefore it is hard to move Aboriginal women through to less secure centres. The prison authorities
misunderstand the issue; perhaps if they moved a number of Aboriginal women together the process may work. Recently women were sent letters saying if they did not move to other centres they would be sent back to secure detention within BWCC. The women responded by arranging for their own return to secure.

We believe it is important to understand the culture and the power dynamics of each prison as much as possible so that we can work with the indigenous women for positive transition and not get ‘sucked in’ to the power plays and abusive processes. It is negligent to work within the system in any capacity be it programs, transitional support, counselling, chaplaincy or prison personnel and not pay attention to the culture or to use it for negative impact or power over the indigenous women.

It is nonsense to suggest, as some do, that prison is a therapeutic community that creates change. If indigenous women do use their prison experience to make changes in their lives through education or working through personal issues it is in spite of the system not because of it. Ironically those in power talk about rehabilitation and reducing recidivism when presently the systems that they administer make it very difficult for this to occur.

Indigenous women in prison are constantly told that they are incapable of making decisions because in jail all decisions are made for them. It is true that they are not able to make some of the routine daily decisions that those outside make, like what to wear or where to go for the day, it is not true that they are incapable of making decisions. However institutionalisation makes them lose confidence in their ability to make decisions. The situation is very similar to that of a woman in a domestic violence situation. Given that at least 85% of women in prison have / still are experiencing domestic violence in their lives, the message they get in prison reinforces their negative self concept and further lowers their self esteem.

In our work with indigenous women we challenge the notion that they do not make decisions. The enormity of the decisions that indigenous women make daily are difficult to comprehend in the outside world. However they are crucial to their survival. For example since moving to the new prison the indigenous women in Brisbane Women’s Prison are subjected to a full strip search including cough and squat after every visit (family - legal). If the indigenous woman is menstruating she is required to remove her tampon or pad and hand it to the screw for disposal. This is an enormous decision for indigenous women to make. They have to decide to be subjected to this indignity and sexual abuse in order to see their family or have legal counsel. One long termer had not been strip searched for four years prior to the new prison opening. Given the sexual abuse statistics constant strip-searching can be life shattering for some women. They relive their previous sexual assault and become re-traumatised. Some decide not to see their families because of this. The long termer mentioned previously is one of them. Most people make a decision of this magnitude once in their lifetime, many indigenous women in prison do it weekly. Strip-searching is an abusive process for the women screws, as well, they too are women who think, feel and menstruate. They tend to become desensitised and abusive, stressed or leave, remember the culture allows “no weakness”.

Sisters Inside does not believe that set responses to issues the indigenous women encounter during the transitional stages are useful. Instead we work within a set of principles that are appropriate for all women to develop a response plan, with the woman, which takes into account her individual needs and circumstances. The most common issues indigenous women approach us with are in relation to family and accommodation. We have identified that many indigenous women need to resolve these before being able to focus on herself.
When indigenous women do focus on themselves we work with issues like fitting into prison, relationships, the violence in her life, education / work prospects, sexual abuse, self esteem and self concept, goal setting, substance misuse etc.

We work with the children and “family” of the women only if they wish us to. Issues in relation to “family” include:

- Custody, access (visits), health of family members, support systems for the care providers, changing roles, grief and loss.
- Children- grief and loss issues, anger, trouble at school, offending, secrecy (people/friends not knowing where mum is), relocation, and different rules in changed care provision.
- Accommodation issues are around where women are going to live upon release. Women have to have suitable accommodation arrangements to secure Home Detention, Sponsored Leave Of Absence, and Parole and in many cases to regain custody of their children. It is particularly difficult for indigenous women because of the racism that is rife within the rental market.
- We do not give legal advice but we do talk with women about their options, services available and make appropriate referrals.
- We advocate on behalf of women and their families with government and non-government departments and other officials. We also advocate and lobby widely regarding the human rights of indigenous women in prison.

The Principles that guide our work are:

- **Indigenous Women’s Interaction with us is voluntary** - this means that when we first see an indigenous woman we tell her seeing us is always her choice and she can change her mind about this when ever she wishes.
- **Do not make assumptions about what the issues are and work at the woman’s pace** - we state this at first meeting and reinforce constantly. We start at were the woman is at and move on when she is ready. A woman might be referred to us for sexual assault counselling but we might work with a dozen other issues before that.
- **Confidentiality is assured**- we have a policy that we will not disclose content of our interaction with women to anyone unless the women ask us to. When they do ask us, we negotiate around what information might be disclosed. We write reports to support Parole Board Hearings and other applications. We show all reports to the women first and discuss the content and negotiate changes. The woman has final say on whether the report is submitted and to whom.
- **Indigenous Women are the experts in their own lives** - we constantly reinforce this notion with the women through both word and actions. We do this through hearing and believing their stories, assisting them to identify their needs and exploring how she wants to address her concerns and issues.
- **Honesty in Interactions** - We believe that it is important to “walk our talk”, make our actions fit our words. This means naming things for what they are. We endeavour to give the women all the information we have so that they can make informed choices. For example if a woman decides to work on some personal issues we let her know that beginning this work can leave her vulnerable in the prison culture. We discuss how she will keep herself safe during this time. We know our own abilities and gaps and say what we are not able to do.

- **Establish clear boundaries** - We believe it is essential to have clear boundaries and state what these boundaries are. This creates consistency in our responses and helps build trusting relationships. When we run groups we develop a working agreement with the women/children at the beginning of the group to establish the group norms and set boundaries. When working with individuals we negotiate the parameters of interaction and clarify our roles.

Our approach to working with women in prison is based on valuing the indigenous women as human beings who do think and feel and have skills. It is about treating them with respect and dignity. In 1998 Garcia Coll et al researched the needs of women in prison in America and the implications for service delivery. They found women prisoners identified “being respected as people with dignity was one of the most important components for survival in prison” (Coll et al 1998:21).

The prison system reflects and reinforces society’s view, value and treatment of indigenous women. It is too easy to lock indigenous women away and forget about them. It is too easy to label indigenous women who offend as personality disordered, mad or bad. It is too easy to build big new prisons and fill them. It is much easier than acknowledging that indigenous women in prison are thinking, feeling human beings who have committed an act that society has defined as a crime. That they are entitled to dignified humane treatment while paying their penalty.

It is much easier then accepting that we; academics and workers in the Criminal Justice sector contribute to the ongoing abuse of indigenous women by portraying or treating indigenous women in prisons as criminals who can be researched, boxed, labelled, treated and abused by those with power and influence. At this time in Australia we are in a position to break down the walls and change the culture, our prisons have not got as huge and totalitarian as in America. What it will take is for all of us to critique our own practices and ask if what we are doing challenges the existing culture or supports and justifies desensitised practices?
Program Issues

While every attempt has been made to ensure that this ethnic specific program avoids anti-discriminatory practice, its strengths in this regard have also been some of its weaknesses.

As mentioned, the AFSP was based on the results of a survey of Aboriginal people which clearly pointed to the importance of ensuring that it was family based and not targeted at a perceived homogeneous population of indigenous people. The process of consultation with the Aboriginal Council of Noongar Elders is predicated on a principle of indigenous people as having to some extent a common link, therefore implying some aspects of homogeneity. There has also been considerable difficulty in maintaining the involvement of both the Aboriginal Affairs Department (one of the joint initiators along with the Ministry of Justice) and members of the representative group of the Council of Noongar Elders. A sticking point early in the program was over payment of the Council members to attend the Steering Committee meetings. There have also been difficulties in accessing the Council of Noongar Elders to attend these meetings.

There has been a decision, however, to offer payment (Steering Committee Meeting in July 1998) in an attempt to encourage the presence of representatives of the Council at Committee meetings.

The recruitment of mentors within families has also proven difficult. There are a number of reasons for this. The most important and probably most hindering has been the bureaucracy’s rigidity in demanding that mentors agree to a Criminal Record check. Again, early in the life of the program, at a meeting of the Coordinators during their training/induction period the issue of the negative nature of this requirement was raised. Senior Management refused to budge on the matter. It was not so much the concern of the Coordinator that a large number of suitable mentors would be found to have had a brush with the law, but that it was seen as an unnecessary and an overly bureaucratic interference. If the criteria of the mentor being acceptable to the Coordinator, the family and the young offender was in place that should have provided a sufficient safeguard against any harm to the young person. The lack of trust in that process in some ways could be perceived as a lack of trust in the parties to the process. The safeguard of a Criminal Record check was more to do with a bureaucratic safeguard than a ‘real’ safeguard.

In line with the original concept of the AFSP, mentors were drawn from within family systems. This has been increasingly difficult due to:

- The perception of the mentor being part of the Ministry and its function due to the fact that they are employed, report on the young offender and owe their primary responsibility to the Ministry and not the family, i.e. to some extent “who pays the piper calls the tune”.

- Requirements of the bureaucracy and its process of accountability, copious paperwork, report writing and case recording. This raises issues of exceptional Mentors who do not have basic literacy and numeracy skills not being able to fulfil this requirement or feeling inadequate through not being able to perform the basic tasks of form filling without assistance.

- Families not wanting family members to be involved in a process of checking and standing in judgement. The use of successful mentors external to the family has been a growing trend. It is at times difficult to maintain a focus on the tasks when there is family feuding and ongoing conflict.

- The perception that the family member, who has been employed as the mentor has ‘sold out’ to the system.
The issue of commitment of both the Aboriginal Affairs Department and the Council of Noongar Elders is also paralleled in the reluctance of families to either use or present family members as mentors. Importantly, however, there is acceptance amongst families of the mentor process.

The Issue of Referrals

There was during the second year of the program, difficulties with referrals. There was a degree of 'gate keeping', particularly by some Aboriginal Community Corrections Officers in some locations. There was also a difficulty with the problem of both offender and prison population mobility. The AFSP operates in quite specific localities and at times a young offender who may have benefited from the program happened to live in a locality which was not covered by the program.

When the program ran at Geraldton in the first year of its operation, prisoner transfers to Geraldton Regional Prison also posed a problem as suitable referrals from that Prison could not always be made because of the home address on release falling outside of the areas covered by the AFSP. Consequently, a number of young offenders who would have benefited from the program had to miss out from the support of a mentor.

The Issue of Cultural Imperialism

Whilst every attempt has been made to ensure the involvement of indigenous people in the development and management of the program and its delivery through the employment of Aboriginal Coordinators, it is a program that has had its genesis within what is essentially a Government bureaucracy. It is structured in fairly traditional ways with processes of accountability of a fairly standard; imperialist trend with regular Committee meetings, Managers, Coordinators, case officers and mentors. There are also standard requirements of all players with kilometrage claims, case notes, time sheets and meetings. While this is the case as well as a constant tension between the requirement of field staff (most of whom are university educated) with their concerns for case accountability and the more organic and flexible befriending of the mentor, outcomes in terms of success in order completion and re-establishment in the community of the young offenders has been outstanding. The balance is in maintaining the flexibility and openness of the helping process within the rigidity of the bureaucracy and its demands.

What Works - A Conclusion

What works is the combination of an Aboriginal Co-ordinator who can interpret the bureaucratic demands to the mentor and the young offender's family whilst ensuring that the demands do not overwhelm them. As well as this, the Co-ordinator takes care of the process of ensuring that the mentor is someone agreed upon by all parties.

The mentor is able to provide a successful role model as they are chosen because of their personal attributes and are quite often people looked up to by the young offender. It is important to ensure that they continue to be selected for their ability to work with the young person and their family and not only to meet the bureaucratic/organisational demands put on them by the requirements of the Ministry.
Mentors provide an intensive form of pro-social modelling to the young offenders and constantly reinforce the use of non-offending behaviour. In McGuire and Priestley’s review of ‘What Works’ (1995:16), they state:

"Amongst the range of intervention methods included in the meta-analyses, those which emerge as offering the most promising outcomes are based on the ‘cognitive-behavioural’ approach."

One of the cognitive-behavioural methods is social skills training, which includes modelling and this method has been used successfully with young offenders.

The Program is now in its fourth year of operation and it has undergone some changes, which include:

- Changes of structure and alignment following the amalgamation of the Juvenile Justice and adult Community Corrections Directorates to create the Community Based Services Directorate in February 1997.
- The Geraldton program ceased to operate in early 1998 due to a lack of referrals and the resources have been relocated to the Maddington and Bentley Centres, which cover the southeastern corridor of the Perth metropolitan area.
- The use of non-family members as mentors rather than the original concept of family mentors only, due to both difficulty in recruiting and retaining them.
- Current proposal for the program to be expanded across the whole metropolitan area, which is an equity and access issue. If no new funding is granted, then the three Coordinators may have to take on extra areas to increase the coverage.

While the program has produced positive outcomes and results, there are difficulties relating to much of the process. Young offenders have benefited from the involvement of mentors; however, bureaucratic processes remain as a continuing irritation. The case officers are often irked by what appears to be noncompliance on the part of the mentors when they do not make case notes or when their journals, outlining hours worked and kilometres driven, are not as accurate as they would like.

The incompatibility of the predominant culture of the bureaucracy with the contemporary indigenous culture’s view of what is important creates a continuing tension. It is hoped that at the end of the day the focus on positive outcomes for the young offender prevails.
References

Beresford, Q. & Omaji, P. *Rites of Passage: Aboriginal Youth, Crime and Justice.* Fremantle Arts Centre Press, Western Australia. 1996.


AN OVERVIEW OF THE THEORY OF DIVERSION:
NOTES FOR CORRECTIONAL POLICY MAKERS

Associate Professor Rick Sarre
University of South Australia

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference
convened by the Australian Institute of Criminology
in conjunction with Department for Correctional Services SA
and held in Adelaide, 13-15 October 1999
Introduction

In order for practitioners to divert successfully Indigenous Australians from vortex-like aspects of the criminal justice system, it is important for them to have an appreciation of the difficulties that have beset the attempts of their predecessors. It is also important to explore alternative paradigms that may better deliver the desired outcome, namely some reduction in the over-representation of Indigenous Australians in police cells, court lists and prisons populations. This paper looks firstly at the reality of over-representation in the context of the findings of the 1991 Royal Commission into Aboriginal Deaths in Custody. It then reviews the aims of diversionary theory, and analyses its apparent failure to deliver on its promises. The paper finally previews the possibilities associated with embracing the 'restorative justice' paradigm for those seeking to re-enliven the theory of diversion by aligning it with principles of Aboriginal 'community' justice.

The Royal Commission into Aboriginal Deaths in Custody

The A$40 million Royal Commission into Aboriginal Deaths in Custody, which concluded in 1991, was a milestone down the continuing road of criminal justice reform in this country. Commissioner the late James Muirhead took the view that the Royal Commission should investigate not only how the 99 deaths under scrutiny occurred, but also why they occurred. Thus, it was determined that the Royal Commission should include in its terms of reference a range of underlying issues, including social, cultural and legal factors which appeared to contribute to disproportionate Aboriginal arrest, detention and imprisonment rates (Office of Indigenous Affairs 1994; Cunneen and McDonald 1997a, 1997b).

Among the factors considered by the Royal Commission was the imposition of custodial sentences. Its concern was especially with the following issues:

- Is imprisonment seen as a last resort?
- Are alternatives such as community service orders realistically available to Aboriginal people?
- Are such alternatives appropriate to Aboriginal communities, and do they set unrealistic expectations that lead, ultimately, to an increase in the incidence of offenders being placed in custody?
- Are legal aid services available and adequately funded?
- Are legal processes comprehensible to Aboriginal people?
- Do legal officers and the judiciary know enough about Aboriginal culture to be able to fix more effective penalties and impose more workable conditions on the release of offenders, which do not unwittingly encourage further offences?

The Final Report of the Royal Commission was published by later Commissioner Elliott Johnston. One of the key findings of the Report was simple and unequivocal.

The first strategy to reducing the number of deaths in custody is to reduce the number of Aboriginal people coming into custody in the first place. (Royal Commission 1991: 133)
339 recommendations followed. In the final analysis, much attention was paid to reducing the numbers in custody through diversion from police custody and the use of imprisonment as a last resort. Strategies to address the former issue included decriminalisation of certain offences including public drunkenness, improved and culturally relevant use of community policing, increased use of community-based options including cautioning as an alternative to arrest, and changes to bail provisions and procedures. Recommendations in relation to the use of imprisonment as a last resort included strategies such as expunging past convictions, community service alternatives, increased legal aid funding, and appropriate non-custodial sentencing options capable of implementation in consultation with offenders’ communities. Home detention was particularly recommended as an option both for sentencing and as a means of early release. The use of community service orders, probation and parole, and the use of fines were all given limited endorsement, as long as the use of these alternatives neither disadvantaged Aboriginal offenders in relation to other opportunities, nor placed them disproportionately at risk of further imprisonment for defaulting.

The current criminal justice landscape

Sadly, the position of Indigenous Australians vis-à-vis the Australian criminal justice system identified by the Royal Commissioners has hardly changed in the seven years since the Final Report was published. Suspicions were in place in the three years following (Walker and McDonald 1995) and since. Despite commitments to implement the recommendations and a raft of new ideas and programs to ensure progress was made (eg. Australia 1994, South Australia 1994, Royal Commission Government Response Monitoring Unit 1997), the presence of Indigenous peoples in Australian police cells, criminal courts and prisons, when compared with non-Indigenous Australians, remains wildly disproportionate. Australia’s Indigenous peoples represent almost 2% of the Australian population but, at 30 June 1997, they made up approximately 3,000 of Australia’s 18,400 prisoners, that is 17% up from 14.6% a decade ago (Brown 1997: 197). Between 1988 and 1995 imprisonment of Indigenous Australians increased 61%. Non-Indigenous imprisonment rose 38% in the same period (Social Justice Commissioner 1996). The jurisdictional breakdown of the various percentages of Indigenous populations compared with imprisonment percentages is shown in Table 1 below.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>% Indigenous population</th>
<th>% prisoners who are Indigenous</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>1.5%</td>
<td>12.7%</td>
</tr>
<tr>
<td>Queensland</td>
<td>3.2%</td>
<td>24.5%</td>
</tr>
<tr>
<td>South Australia</td>
<td>1.6%</td>
<td>18.0%</td>
</tr>
<tr>
<td>Victoria</td>
<td>0.5%</td>
<td>5.0%</td>
</tr>
<tr>
<td>Western Australia</td>
<td>3.2%</td>
<td>33.4%</td>
</tr>
<tr>
<td>Tasmania</td>
<td>4.0%</td>
<td>12.9%</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>28.4%</td>
<td>72.4%</td>
</tr>
<tr>
<td>Australia</td>
<td>1.9%</td>
<td>17.0%</td>
</tr>
</tbody>
</table>

Table 1: Percentage Indigenous populations and prisoners per jurisdiction

1 Recommendation 92 (Royal Commission 1991)
3 An increase from 1994-5 of 6.6%. Refer Sarre 1999d.
In South Australia, as at June 30 1997, there were 151 Aboriginal men and 19 Aboriginal women in SA prisons, being 10.7% of the male prison population and 20.6% of the female prison population. When reviewing the daily average for the first half of 1997 these percentages climb to 16.9% and 28% respectively (Australian Bureau of Statistics 1998)4. Across the nation an Indigenous Australian adult is now at least 13 times more likely to be in custody than a non-Indigenous Australian adult. In 1997, 1,620 per 100,000 Indigenous Australian adults were in prison5, compared with an imprisonment rate of 126 per 100,000 for Australians generally6.

Sentence length does not appear to be a factor in high imprisonment rates. In fact, prison sentences of Indigenous Australians are usually shorter than the average. 62.1% of Indigenous prisoners in Australian prisons are expected to serve sentences of 24 months or less. The percentage of prisoners generally who serve sentences of this length is 53.7% (Australian Bureau of Statistics 1998: 28, 72).

Levels of over-representation in police custody also remain high. In 1995 the rate of Indigenous Australians in police custody was 2,228 per 100,000 population compared to 83 per 100,000 for non-Indigenous Australians (McDonald and Cunneen 1997: 92). Hence, Aboriginal and Torres Strait Islander peoples found themselves in police custody rates at approximately 26 times the rate of non-Indigenous Australians. The over-representation peaked in Western Australia at 39 times (Cunneen and McDonald 1997a: 21). There is little reason to suspect any recent variations to these 1995 figures (Carcach and McDonald 1997).

In relation to remand in custody, Aboriginal over-representation is apparent in all jurisdictions. Despite a commitment of governments to attempt to remand Indigenous Australians into non-custodial options, it is simply not happening. For example, in South Australia, 20.4% of prisoners remanded in custody currently awaiting trial are Indigenous (Bamford et al. 1990). The over-representation of Indigenous remandees in South Australia at 30 June 1998 is 23.4 times (South Australia 1999a).

Between 1989 and 1996 Indigenous Australians were 16.5 times more likely than non-Indigenous Australians to die in custody (Social Justice Commissioner 1996)7. There have been more Aboriginal deaths in custody in the nine years since the Royal Commission than during the nine and a half years examined by the Commissioners (South Australia 1999a).

So while the numbers of deaths in police lock-ups appear to have been reduced Australia-wide, perhaps because new, clearer guidelines dictate how an Aboriginal person must be treated when first taken into custody (Council for Aboriginal Reconciliation 1994a, 1994b: 23, McDonald 4)

---

4 Over-representation in South Australia at 30 June 1998 was 20.7 times. Aboriginal females now account for almost 1 in every 2 of total female intakes to prison (South Australia 1999a).
5 June Quarter 1997 Australian Bureau of Statistics figures.
6 In Western Australia in 1997 the Indigenous imprisonment rate was 2,477 per 100,000 (ABS 1997: 4).
7 This confirmed the findings of earlier studies that showed an average of 10.5 Aboriginal deaths in custody annually since 1989, the same as the average during the period covered by the Royal Commission (Biles and McDonald 1992; Australian Institute of Criminology 1994: 2). The position is far from clear, however. Dalton (1998a, 1998b) has found in her research that while the numbers of Indigenous deaths in all forms of police custody - and deaths that occur in the process of persons being taken into custody - have remained stable since 1990, prison deaths have declined since 1995. During 1996 the relative risk of death in prison for Indigenous prisoners was 1.3. By 1997, the figure had dropped to 0.52 (Dalton 1998b: 8). In 1997 Indigenous prisoner deaths, however, still made up more than 13 per cent of custodial deaths (Dalton 1998a: 8). From June 1996 to June 1997, however, there were no Aboriginal deaths in custody in SA (source: Royal Commission News: ALRM and AJAC, RCIADC Independent Monitoring Newsletter, July/August 1997 # 43/44).
and Cunneen 1997), little has changed on just about every other front. Indeed, the situation, especially in relation to so-called ‘public order’ offences is now worse than before the Royal Commission (Jochelson 1997), especially in the Northern Territory and Western Australia, where specific legislative sentencing provisions appear to be targeting young Aboriginal Australians (Flynn 1997, Palmer 1997, Schetzer 1998, O’Shane 1999). What has happened? How could all of those good diversionary ideas and practices fail to deliver what their proponents promised?

**Diversion as a means of reducing over-representation**

The answer to that dilemma may lie in the notion of diversion itself. The history of this notion, of course, begins much earlier than 1991. The reformers of the 1970s, based essentially in North America, sought to reduce prison numbers by diverting those heading in that direction into other non-custodial options. The impetus for change came from a combination of factors including high prison numbers, high recidivism rates, high costs, and the negative impacts of conventional methods of punishment on rehabilitation and reintegration of offenders into wider society. There was a real sense that there was a penal crisis looming, and that only by some drastic measures would it be averted (White and Perrone 1997). Offenders who would normally have been incarcerated were to be diverted away from prison. It was as simple as that.

There is, however, a widely held view of these reforms, two decades later that their achievements were not always beneficial and indeed were, at times, counter-productive. There is a constant danger with diversionary programs that people who are diverted from formal agencies of social control are more often directed into a less formal - but no less bureaucratic - apparatus rather than away from the system entirely. Indeed, some people who would have avoided custodial options altogether may nevertheless be drawn into it by well-meaning 'diversionary' practices. This has become known as the 'net-widening' effect (Greenberg 1975, Blomberg 1977, Austin and Krisberg 1981, Tomaino 1999a: 172, 1999b: 198). Stanley Cohen made the following observation about diversion and net widening in 1985:

"Leaving aside for the moment questions about causality, consequence and failure, the size and density questions can be answered quite simply:

(1) There is an increase in the total number of deviants getting into the system in the first place and many of these are new deviants who would not have been processed previously (wider nets);

(2) There is an increase in the overall intensity of intervention, with old and new deviants being subject to levels of intervention (including traditional institutionalisation) which they might not have previously received (denser nets);

(3) New agencies and services are supplementing rather than replacing the original set of control mechanisms (different nets).

No one who has listened to the historical tales ...should be altogether surprised by any of this. But these patterns need careful scrutiny, are not always self-evident and ... are never easy to explain". (Cohen 1985: 43-44)

One of the problems with diversion is that it can, at times, result in *increases* in the number of people and range of behaviours subject to official control, when the idea was to *reduce* numbers.
Three examples of diversionary disappointments

Let me give three examples of the phenomenon in recent South Australian history. The decriminalisation of public drunkenness in South Australia in 1984 provides the first example of a clear net-widening effect. This legislative move precipitated a significant rise in the frequency with which disadvantaged individuals, particularly Aboriginal Australians, were apprehended and held in police cells, albeit now for reasons of 'welfare' rather than public order (Office of Crime Statistics 1986; Bird 1987). Net-widening occurred because formal prosecution papers no longer needed to be prepared, and hence one of the major disincentives for police to intervene in the life of an inebriated person had been removed. Simply stated, it was far easier to direct drunks to a diversionary program than to take them to court. Consequently, more Aboriginal people came under the direct gaze of the criminal justice system than before the reform.

Another example is the suspended sentence. This initiative was introduced into sentencing practices in the UK, USA and Australia in the 1970s as a mechanism designed to reduce prison numbers (Bottoms 1979). The power to suspend was introduced in South Australia in 1970 by an amendment to the old Offenders Probation Act (SA) 1913-71 (Mitchell Committee 1973: 140). It is documented in the law reform literature that the suspended sentence can be a means by which prison numbers are reduced (Australian Law Reform Commission 1979). The dilemma is, however, that suspensions have not been used to mitigate the punishment for those who would have gone to prison in the normal course of events. Rather, suspended sentences have been used as an 'add-on' for offenders who were unlikely to be imprisoned (Fox and Challinger 1985, Tait and Polk 1988). There is some suggestion that sentencers might indeed give longer suspended sentences to offenders than would have been given had custody been inevitable (Australian Law Reform Commission 1987a; 1987b: 36). Then, since infractions of good behaviour bonds do occur regularly, thereby activating dormant prison sentences, the correctional system is faced with an increasing number of people who may, potentially, be facing prison, that is, the exact reverse of the aim of the exercise (White 1973, Sarre 1984: 183; Searle et al 1998).

The third example is the 'family conference' for youth offenders under the Young Offenders Act (SA) 1993. It has long been thought that those 'diverted' from court by the program would have been likely to stay out of court anyway (Sarre 1999a). That is, one may have suspicions that there are many candidates for cautions that find their way into a formal family conference by well-intentioned but misplaced beneficence (Polk 1994). The conference option has made only a slight difference to the numbers of matters being referred to court (the court attendance figure is three times the anticipated one), possibly because the legislation excludes serious cases from conferences. Nor have these reforms had any effect in reducing the rates at which Aboriginal youth are being caught up in the juvenile justice system (Atkinson and Dagger 1996). Aboriginal youth are 1.7% of the South Australia's youth population but they

---

8 Currently in South Australia, the Department for Correctional Services (DCS) is examining anew the place of diversionary programs in sentencing practice, especially for offenders with alcohol and other drug-related problems, and with particular attention to Aboriginal offenders. It is clear that current policies are simply not having the desired effect. The evidence is that the criminal justice system, particularly as it is played out in the courts, is difficult to work with, is inconsistent, and frequently works in ways that are counter-productive for alcohol and other drug offenders. (ADCA 1996a: 8, 1996b).

9 An offender receives a prison term which is not put into operation unless and until there is a breach of a good behaviour bond. Refer Sarre 1999c.

10 Sherlock (1970) put the figure 30 years ago in the UK at 83%.

11 Simply stated there appears to have been a diversionary effect but it has not been as high as anticipated (Sarre 1999a).
still make up 14% of all apprehension reports. The degree of over-representation for Aboriginal females is almost double that for males. In a 1996 review of the legislation, the Director of the Office of Crime Statistics made the following observation.

"... Aborigines accounted for 7.2% of all cautions, 12.4% of all referrals to a family conference and 19.3% of all referrals to the Youth Court. Their level of over-representation therefore increases as they move deeper into the system. A similar situation applied under the old system." (Wundersitz 1996: xx)

Discussion

One might suspect that correctional interventions and diversions in response to the ideas put forward by the Royal Commission have failed because of some of the factors identified above. Correctional policy-makers may need to give greater cognisance to the threat of netwidening and diversionary ‘counter-productivity’ in their theoretical conceptualisation (Polk 1987) and the implementation of diversionary programs (Sarre 1991). Of course, by the time a person is to be received by corrections, diversionary schemes that should have been in place ‘up stream’ have already failed, and that being the case, attempts at diversion ‘down stream’ are always going to be problematic.

This is not to say that all attempts to divert Indigenous, or indeed any other, offenders from the formal criminal justice system processes should be abandoned. Rather, they ought to be re-considered and re-enlivened, giving greater credence to the potential for insight offered by the paradigm of restorative justice.

Diversion in the context of restorative justice

The notion of restorative justice, or ‘relational’ justice as it is known in the United Kingdom12, has been a topic of particular interest amongst justice practitioners and academics in the last fifteen years. But the concept has been recognised for a hundred years and its roots lie in antiquity13.

In 1977, psychologist Albert Eglash coined the term ‘restorative justice’, writing:

“... The reparative effort does not stop at restoring a situation to its pre-offence condition, but goes beyond: Beyond what our own conscience requires of us, beyond what a court orders us to do, beyond what family or friends expect of us, beyond what a victim demands of us, beyond any source of external or internal coercion, beyond any coercion into a creative act, where we seek to leave a situation better than it ever was.”

(Eglash 1977: 95)

---

12 There is also reference from time to time to ‘alternative’ justice, ‘community’ justice, and ‘transformative’ justice, refer Zehr 1985, Sarre 1999b, Van Ness and Strong 1997.

13 Since the 12th century in English law, the criminal justice system has been premised upon the state taking action against offenders, a legacy of the Norman conquest in 1066. Prior to that time, victims or their kin pursued private actions in an endeavour to ‘restore’ the parties to the positions they had been in prior to the offence. Victims took the lead in organizing the communal reaction to law-breaking, and the desire for compensation was probably at least as common as the urge to retaliate. Victims eventually lost their central role in the justice process when formally organized governments emerged and began to assert their authority. Crime became a crime against the state, the key features of punishment became deterrence and retribution and victims were referred to the civil courts, not the criminal courts, for their grievances to be heard (McDonald 1986a: 1, 1986b).
Restorative justice soon emerged as a legitimate justice model,

"... designed to provide the context for ensuring that social rather than legal goals are met. The expected end result is that communities and individuals are empowered in dealing with their problems and in influencing the direction of the criminal justice process, so formal punishment and incarceration become less relied upon sanctions". (La Prairie 1995: 78)

The principles are often expressed in different ways, but some clear themes emerge. In models of restorative justice, there is

1. Shared responsibility for resolving crime and for one another
2. The use of informal community mechanisms and consultation in formulating solutions
3. The inclusion of victims as parties in their own right
4. An understanding of crime as injury, not just law breaking
5. An understanding that a state monopoly over the response to crime is inappropriate (Justice Fellowship 1989: Part I, 21)

The 'success' of a justice system based upon restorative notions is not measured by the final outcome or legal result,

"but rather by the degree to which people feel they have an impact, that they have been treated fairly, that they have understood each other, that they have better mechanisms for making decisions and handling their differences, and that their key issues have been addressed ... If successful, the participants feel that they are a valued part of their community". (Lederach and Kraybill 1995: 368)

One theorist has referred to restorative models as having ‘legitimacy’ through the willingness of participants to accept the justice system if it recognises crucial relationships (Bottoms 1994: 58).

It is my view that policy-makers ought to re-define and re-enliven diversionary practices so that they incorporate restorative justice principles. To a large degree, one could argue that the current range of community justice initiatives alive in South Australia are restorative, and offer clear insights into the sorts of diversionary schemes which are more likely to deliver what their advocates promise. In the Aboriginal Community Justice ‘scoping’ document (South Australia 1999b) is found a range of projects that are designed to build partnerships with the community, “that foster understanding, involvement and ownership in criminal justice system processes and programs” (1999b:i). The report contains a long list of initiatives designed to encourage the use of informal mechanisms to solve justice issues within Indigenous communities themselves (including tribal law14) rather than rely upon the formal processes of the law. The list of consultative programs continues through the 1999 report of the Aboriginal Justice InterDepartmental Committee (South Australia 1999c). Of particular

14 There is a good case to be made for the greater recognition of Indigenous or tribal law in sentencing (Royal Commission 1991: recommendation 104). "Recognition must be given ... to the existence (and survival) of customary law. As Indigenous cultures are organic (rather than static), customary law may exist (albeit in an evolving/evolving format) in contemporary communities, as well as in their more traditionally orientated counterparts. As Australian society examines socially just ways of dealing with its Indigenous peoples, and as Aboriginal and Torres Strait Islander peoples continue to demand the right of more culturally appropriate responses, the importance of customary law cannot be underestimated" (Social Justice Commissioner 1995: ¶31, also Sarre 1997, 1998).
interest are the Aboriginal Court Day, Community Healing Centre, the Community Justice Orders and the Community Sentencing Panel, the purpose of which is to redefine Aboriginal community justice ...

"within broader criminological and socio-political concepts – Restorative justice and Aboriginal self-determination – and binds together a rich spectrum of Aboriginal justice workers, programs and initiatives within this context of Aboriginal community restitution." (1999b: 28)

An example of a diversionary mechanism that has been re-defined within the community justice paradigm is the Aboriginal conferencing team recommended in 1996 (Wundersitz 1996: 125) and reported enthusiastically in 1999 (South Australia 1999b: 8-9).

It is argued in this paper that diversionary schemes are far more likely to be effective and to avoid the failures of implementation and contradiction that have dogged their forebears if they are framed within the context of Aboriginal community justice rather than imposed by bureaucracies (eg. Chantrill 1998). To that extent all policy-makers, correctional or otherwise, should alert themselves to the possibilities of restorative theory and to examine the potential for re-shaping diversionary schemes to aim for community justice goals.

Conclusion

There is a massive over-representation in the criminal justice system by Indigenous Australians. Racial disparity in punishment is not a new phenomenon, of course. It has been described as an inevitable and predictable by-product of any society where a certain race finds itself coming to the attention of police in disproportionate numbers (Blumstein 1982). While there may be some logic in that proposition, the strong suspicion remains that discrimination in justice practice (Myers 1993) and poor diversionary implementation (Sarre 1991) or ineffective evaluation (Sarre 1994) all play an essential role in the final outcome.

Whatever the reasons, the situation in Australia today remains untenable. The current social and criminological literature provides a sober warning. Facets of the Australian criminal justice system will have to change, or Australians will face a static or growing race-based disproportionality. Policy-makers must re-enliven diversionary practices so that they have the desired effect. This can best be done if community justice initiatives are explored more seriously, as part of a broader restorative justice paradigm shift, along with greater political zeal towards a self-determination agenda (eg. Brennan 1993).

Restorative concepts must be embraced, and the dilemmas tossed up by diversionary failures must be addressed, if there is to be significant movement away from the grim realities of the contemporary criminal justice experience of Indigenous Australians. Only in this environment will the most appropriate responses be developed to ensure that Australia's Indigenous peoples do not continue to be caught up in justice systems that espouse sentiments that they deliver justice and equality to all Australians, while doing exactly the opposite.
References


ADCA, (1996b) Best Practice in the Diversion of Alcohol and other Drug Offenders, Canberra: The Alcohol and Other Drugs Council of Australia, October 1996.


Cunneen, C. and D. McDonald. (1997a). Keeping Aboriginal and Torres Strait People out of Custody. Canberra: Aboriginal and Torres Strait Islander Commission.


Office of Crime Statistics (1986). Decriminalising drunkenness in South Australia, Research Bulletin No. 4, South Australian Attorney-General’s Department, OCS.


Sarre, R. (1984). The Orwellian Connection: A Comment on Recent Correctional Reform Literature, Canadian Criminology Forum 6 (2) 177-188.


Tait, D. and Polk, K. (1988) The Use of Imprisonment by the Magistrates’ Court, Australian and New Zealand Journal of Criminology, 21(1) 31-44.


FOETAL ALCOHOL SYNDROME – WHAT IS IT AND WHAT ARE THE POSSIBLE IMPLICATIONS?

Dr Nicholas Williams
Adelaide Central Community Health Services, SA

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference
convened by the Australian Institute of Criminology
in conjunction with Department for Correctional Services SA
and held in Adelaide, 13-15 October 1999
The association between the affects of alcohol and poor pregnancy outcome has been known for many years. One of the first studies, published in 1899 in England, reported a two and a half times increase in stillbirths and infant deaths amongst “female drunkards” at a Liverpool prison compared to their sober female relatives. So it would also seem that the association of alcohol affected babies and the Corrections Service is equally as long. This purpose of this paper is to describe what Foetal Alcohol Syndrome is, and to give it some context within the Correctional Services industry.

Foetal Alcohol Syndrome (FAS) is described as the commonest preventable cause of mental retardation in the western world. It refers to a pattern of malformations found in children of mothers who drink large amounts of alcohol when they are pregnant. The most common features of FAS are the characteristic facial appearance in infancy, mental retardation and central nervous system dysfunction; reduced body weight and head circumference; hyperactivity; and lifelong “life-skills” and judgement problems. FAS makes up only a small part of Foetal Alcohol Effects (FAE). This term refers to all the effects caused by prenatal exposure to alcohol.

When a pregnant woman drinks so does her foetus. Alcohol freely crosses the placenta and maternal and foetal blood levels are essentially the same. Alcohol is teratogenic. It effects the development of the embryo and can result in a range of abnormalities from growth deficiency, to malformation, and even death. The central nervous system (CNS) manifestations of the disease are poor muscle tone, weak sucking ability, and poor co-ordination in infancy. Hyperactivity occurs in over half those affected.

In early school years, CNS effects include attentional, memory, and learning problems. IQ’s are generally low, the frequency distribution shows a shift of 30 points below the mean. Behavioural problems such as failure to consider consequences of action, lack of initiative, and lack of response to social cues are characteristics of FAS in adolescence. Uninhibited and impulsive behaviours are often observed. The potential secondary disabilities associated with FAS are early school drop-out, alcohol and drug abuse problems, joblessness, homelessness, trouble with the law and mental health problems.

Adolescents with FAS become involved in the criminal justice system as both perpetrators and victims of crime partly as a result of their poor judgement. A study in British Columbia showed that 24% of youth in goal had evidence of FAS or Foetal Alcohol Effects (FAE).

We have no idea of the incidence of FAS in Australia. Worldwide incidences are quoted at 2 in 1,000 children affected. South African studies report up to 20 per 1,000 children being affected in severely disadvantaged communities of the Western Cape. In western Canada studies have shown rates of FAS in indigenous children as high as 189 per 1,000; that is nearly 20% of all births.

The total costs to society are staggering. In 1992 it was estimated to cost $2.7 billion per year. In 1998 in Manitoba, Canada, it was estimated that each child with FAS cost the state $1.5 million throughout life due to cost of provision of direct services and through lost productivity.

FAS is totally preventable. If women did not drink alcohol in pregnancy it would not occur. Three general strategies are necessary to prevent FAS: increase public awareness, especially in communities at highest risk; educate professionals to be able to diagnose and treat the condition; and, provide the necessary services to assist those affected and their families.
CROSS CULTURAL AWARENESS TRAINING

Ken Wano
Townsville Correctional Centre, Qld

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Purpose

The Department of Corrective Services, Queensland, is required to provide Cross Cultural Awareness training to staff. The provision of training endeavours to address Royal Commission into Aboriginal Deaths in Custody, Recommendations, (96), (97), (155), (177) and (210).

A position of Senior Training and Development Officer, Aboriginal and Torres Strait Islander Issues, was created at the Training and Development Centre, Wacol. The position was recruited in May 1995 within the Human Resources Development Unit. The principle responsibility of the position to formulate, co-ordinate, and deliver an appropriate training program to address the needs of cross cultural awareness for the Department of Corrective Services.

Background

An extensive consultation process occurred with internal and external stakeholders to ascertain the appropriate material to be included in the program. Stakeholders included inmates, staff, community organisations, education institutions, and other government agencies. It was vital to ensure the program was relevant and tailored toward Queensland corrections.

The Queensland Government developed a whole-of-Government approach to addressing Recommendation 210. This Recommendation directs all State Governments to provide cross cultural awareness to all government employees who have contact with Aboriginal and Torres Strait Islander clients. The Department of Employment Training and Industrial Relations (DETIR), is responsible for the provision of a generic government cultural awareness training program. The program developed by DETIR, "Mura Arna Waakana" was provided to all agencies in March 1996. Agencies are responsible to adapt the program further to benefit their workplace and individual needs.

From the consultation process and the "Mura Arna Waakana" program, the Senior Training and Development Officer formulated a program for use in April 1996. "Many Cultures, One Spirit" is the name of the program conducted by the Department of Corrective Services from 1996 -1999. Approximately 2,300 staff have participated in the program.

The title of the program typifies one objective of the program. To inform participants of the diversity within Aboriginal and Torres Strait Islander society, and to identify the fundamental cornerstone shared by all, the spiritual links to the Lands and the Seas.

The Program

"Many Cultures, One Spirit" is a two (2) day program. The learning style incorporated into the program is based on developing the participant to have an affinity with "what is culture?". Participants examine their own cultural development, defining how they develop a cultural way of life, how culture is passed on and how cultures change and adapted to survive. Further examining the need for some people to live a cross cultural lifestyle and the perceived barriers that can occur, especially during the communication process.
Experiential activities and techniques are used in the program to emphasise to participants how "cultural conditioning" occurs, and how it shapes an individual's view and interpretation of the world. To incorporate the concepts of cross cultural lifestyles, the indigenous facilitator shares experiences of their own cross cultural upbringing, lifestyle and experiences. The sharing of personal stories has proved the most effective way of demonstrating the difficulties faced by people living two cultures.

These processes occur in the beginning of the program, they have proved effective in preparing participants to comprehend and appreciate the origins of Aboriginal and Torres Strait Islander cultures, and the present contemporary issues faced by indigenous Australia. Emphasising the difficulties that have occurred with the cultures adjustment to a totally dissimilar and dominate culture, in order to survive. At this point of the program the reasons for the high rate of incarceration of indigenous persons are identified.

The content of the program includes:

- What is culture?
- What is cross culture?
- Aboriginal and Torres Strait Islander Background and History
- Royal Commission into Aboriginal Deaths in Custody
- Aboriginal and Torres Strait Islander Contemporary Society
- Stereotyping and Prejudice
- Communication strategies
- Contemporary values and belief systems
- Cultural issues impacting on indigenous inmates, offenders and juvenile detainees
- Defining solutions to effectively manage indigenous inmates, offenders and juvenile detainees
- Use of guest speakers

Participants are provided the cultural context of the various "Murrie" programs and management strategies within their respective centres. Programs such as:

- Family Support;
- Elders visits program;
- Traditional smoking ceremonies;
- Buddy up systems;
- Traditional healers;
- Ccell visitors;
- Indigenous sexual health programs;
- Murrie chaplaincy program; and
- The indigenous mental health programs.

Identifying the key cultural links to these programs have provided staff with an understanding of the purpose and need of the programs, to assist with the provision of duty of care.
The major objective of the program is to assist participants develop strategies to communicate effectively with indigenous inmates and offenders, the assessment component of the program is centred on these issues.

**Delivery of Program**

Approval was granted by the Executive of the Queensland Corrective Services Commission in 1995, to include the program in the mandatory training schedule. The program was then marketed to all directorates of the organisation. Essentially, the organisation had to make available all staff to participate in a two (2) day program. Extensive consultations occurred with managers and staff development officers to develop the logistics involved in the provision of the two (2) day program.

Delivery of the program commenced with pre-service courses for Custodial Correctional Officers in 1995. The program is now a permanent subject of the course, and forms part of the assessment process for appointment. Once appropriate time frames were developed, Correctional Centres, Community Corrections Regions, Central Office and Juvenile Detention Centres (when merged with the organisation) commenced the program.

Initially all delivery was conducted by the Senior Training and Development Officer. To assist with the delivery of the program and to develop a training base in the organisation. Expressions of Interest were sought from Aboriginal and Torres Strait Islander staff to become accredited facilitators. After gaining successful accreditation, they were utilised by their workplaces to conduct the training. Directives from DETIR determined all facilitators of cross cultural awareness programs are to be of Aboriginal and/or Torres Strait Islander heritage.

The accreditation process required participants to successfully complete the VETEC Train the Trainer Category (2) program, which is offered through the Departments Training and Development Centre at Wacol. On the job assessment was then conducted by the Senior Training and Development Officer, Aboriginal and Torres Strait Islander Issues. Since 1996 31 indigenous staff have been accredited.

**Impact on the Department of Corrective Services**

The program is incorporated within the workplace competencies of the Department. As part of this process, it has become a unit of learning for the Diploma of Justice Administration. Providing an alternative method of delivery for competencies relating to managing Aboriginal and Torres Strait Islander inmates.

The cross cultural awareness training program does not only endeavour to meet the legislative requirements pertaining to Royal Commission into Aboriginal Deaths in Custody recommendations. It forms part of a system of operation by the Corrective Services agency, to enhance the duty of care required to manage indigenous inmates and offenders in an appropriate manner. For example, providing the cultural context on indigenous lifestyles and belief systems that have formulated into "Murri" programs, have provided a level of understanding to non-indigenous staff of the cultural support systems needed to ensure duty of care. Annual follow up training is being developed to ensure staff receive regular contact to build on the knowledge base established from the two (2) day program.
The Future

The need for an evaluation of programs and services delivered to Aboriginal and Torres Strait Islander prisoners, and the need for culturally appropriate needs based programs for offenders was subject for comment by Mr Frank Peach in his review of Corrective Services in Queensland. Mr Peach described Queensland Corrective Services legislation in relation to Aboriginal and Torres Strait Islander programs and services, as "reasonably described as culturally blind." Ongoing cultural awareness training to staff, at all levels of the organisation, Executives, Policy makers, Managers, program deliverers, community and custodial officers, will enhance the development of appropriate workplace practices, needed to address the Aboriginal and Torres Strait Islander issues identified in Mr Peach's review.

Fundamental to the programs success, is to ensure the facilitator inspires participants to develop self learning outside the class room. This learning will greatly enhance the objectives of the Royal Commission into Aboriginal Deaths in Custody Recommendations, relating to cultural awareness training to staff of the Department of Corrective Services.

References

Johnston, E, 1990, RCIADIC, National Report, Volumes 1 - 5, Australia Govt. Publication Services, Canberra.

INDIGENOUS COMMUNITY EXPECTATIONS OF BEST PRACTICE

Tauto Sansbury
Aboriginal Justice Advocacy Committee, SA

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Abstract

It is now eight years since the release of the findings of the Royal Commission into Aboriginal Deaths in Custody. Since then the implementation of many of the Royal Commission recommendations has been inadequate, and Aboriginal people continue to be over-represented at all levels of the criminal justice system. Despite the recommendation that incarceration should be used as a last resort, Australia's prisons are full of people with mental illnesses who should be treated rather than incarcerated. Aboriginal people are being punished for the government's failure to address their mental health needs.

The recently released National Health Priority Areas report on mental health in Australia highlighted the plight of Aboriginal people. Among the numerous health inequalities faced by Aboriginal people, are some of the highest levels of mental illness in Australia. The causes of these high levels of Aboriginal mental illness are located in the broader social context. Given the high prevalence of mental illness in the Aboriginal communities, it is of vital importance that consideration be given to the links between mental illness and offending, and how the mentally ill are treated by the criminal justice system. Finally, what effect does contact with the justice system and imprisonment have upon the mental health of Aboriginal people?

There has been a singular lack of co-operation between state and commonwealth bodies to work towards national standards to ensure an adequate duty of care towards people held in custody. Uniform minimum standards are needed to protect people in custody in all jurisdictions, and these must be monitored by an independent National Corrections Standards and Monitoring Authority. These standards must be culturally appropriate, and should include the provision of culturally appropriate mental health services, implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody and the 1997 Ministerial Summit on Aboriginal Deaths in Custody.

"...no-one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones...” Nelson Mandela, upon arrival for the first time in prison, Long walk to freedom, Little, Brown, London, 1994, p 187.

The recently released National Health Priority Areas report on mental health in Australia highlighted the plight of Aboriginal people. Among the numerous health inequalities faced by Aboriginal people, are some of the highest levels of mental illness in Australia.

- 25% of Aboriginal people living in the inner city or large towns have mental health problems associated with stressful life situations.\(^1\)
- Aboriginal males are 80% more likely to commit suicide than non-Aboriginal males.\(^2\)
- More than 63% of Aboriginal people presenting to Aboriginal medical services have a significant level of distress, principally depression.\(^3\)

---

Why is this the case, and what does it have to do with best practice for Aboriginal corrections?

Firstly, the causes of these high levels of Aboriginal mental illness are located in the broader social context:

Aboriginal people most frequently suffer from grief trauma and loss – these are risk factors for depression. Trauma loss and grief are rooted in the history of invasion, the ongoing impact of colonisation, loss of land and culture, high rates of premature mortality, high levels of incarceration, high levels of family separations, particularly those involving forced separation of children from parents, and Aboriginal deaths in custody. Other factors include domestic violence, sexual and physical abuse, and a whole range of other traumas. According to the National health priority areas report, “In studies of non-Aboriginal communities, the extent of such traumatic separation, loss, abuse, dislocation, and dehumanisation can only be found in populations subjected to systematic torture, genocide, concentration camps, or urban or family violence.”

This is no coincidence. Aboriginal people are survivors of genocide, and the causes of mental illness can be linked to systematic oppression and deprivation. A survey of 483 clients conducted for the Bringing them home report by the Aboriginal Legal Service of WA found that of 483 clients who were removed in childhood, more than one-third (35.2%) had had their children removed. A process of second (or subsequent) generation removal occurred in more than one in three cases. This is not a figure dating back to the days when removal of Aboriginal children from their families was part of assimilation policy. This is happening to Aboriginal families now.

The Burdekin report identified the need to distinguish two overlapping areas in the consideration of Aboriginal mental health:

- People with mental illnesses, as generally understood
- A large group of people with symptoms of distress, (including depression), that need to be understood in a social context.

One issue that was highlighted in the Bringing them home report was the desperate need for culturally appropriate mental health services. Without such services, misdiagnosis, and consequent inappropriate treatment, or even failure to treat is a critical problem. Where a person presents at hospital drunk, or if they are known to have a criminal record, they may be refused admission – their underlying mental health problem may not be diagnosed. Services, when they are available, are rarely culturally appropriate. When the Bringing them home report came out there were only three Aboriginal mental health workers in South Australia.

---

Mental health problems arising from family separations require service from culturally appropriate services. Aboriginal organisations encountering clients with these problems have few options to refer them.

Secondly, there are links between mental illness and offending. Many people with mental illnesses also have substance abuse problems. These problems can both exacerbate their mental illness, and lead to contact with the justice system, both because of the illegality of the substances abused, and because of the resulting behaviour. This is particularly notable in the case of petrol sniffing which is notorious for causing violent and unpredictable behaviour, and also for causing serious irreversible brain damage in sniffers. The problem is particularly serious in the north of South Australia, where petrol sniffing is a major problem in some communities. These people present particular problems to the justice system – there are a number of prisoners in Port Augusta and Port Lincoln prison who are petrol sniffers. One example of such problems is an instance where a prisoner, diagnosed as a chronic petrol sniffer suffering from brain damage, was charged with assault of a prison officer. The circumstances of the incident were such that it appeared likely that the prisoner’s brain damage limited their ability to pick up emotional cues, implicit and explicit in ordinary communication.

At the very least, prisoners suffering the effects of petrol sniffing should be assessed and management plans developed to assist these prisoners to re-socialise within traditional kinship and authority structures, as well as to learn socialisation within the context of the prison environment.

It is not possible to make any neat distinctions between mental health problems and substance abuse problems, as the two often go hand in hand and are frequently related. Offending behaviour can spring directly from a mental illness, for example, offences against good order, violent or abusive behaviour. Substance abuse can lead to similar kinds of offending behaviour, with the addition of drug related offence types such as, possession of illegal substances, being under the influence of an illegal substance. Offending behaviour can also be symptomatic of other factors that are indirectly related to mental illness. For example, people with mental illnesses are more likely to be living in poverty or to be homeless, this can lead to petty larceny offences, shoplifting, housebreaking.

According to the Australian Medical Association, as many as 85% of prisoners have a drug or alcohol problem related to the reason they are in jail.

Drug problems are often exacerbated in jail, and bring with them additional health risks associated with needle sharing and the high prevalence in prisons of blood borne illnesses such as Hepatitis B and C and HIV AIDS.

While prevalence of mental illness is high amongst Aboriginal people overall, it is even higher amongst the prison population. It is estimated that 50% of women prisoners have a severe mental illness.

The number of mentally ill people in our prisons has increased, partly because of an increase in the rate of imprisonment, and increasingly tough sentencing leading to longer sentences. The other reason for the increase is the aftermath of the Richmond report, which closed down many of the institutions that used to provide care for people with mental illnesses. The de-institutionalisation of people with mental illnesses led to many people being released into the community without adequate resources and abilities to cope with independent living. The
closure of institutions was not accompanied by the creation of enough community facilities to cope with all of these people. What has happened to these people now? Some are living on the streets, many are in constant contact with the police or are in prison. Mental health services are overloaded, many of their clients have substance abuse problems in addition to their mental illness. Mental illness has become criminalised in our society - the prison system has become a de facto treatment centre for mentally ill people.

Thirdly, given the high prevalence of mental illness in the Aboriginal communities, it is of vital importance that consideration be given to how the mentally ill are treated by the criminal justice system. Do we wait until someone is charged with an offence, or worse, imprisoned, before we provide them with assistance? What kind of assistance is provided to the mentally ill by the police, the courts, and corrections?

This is the story of a young lad who recently appeared in court. He was charged with a minor offence. He was assessed as having a mental age of about 8, and an IQ of 60. He appeared to have little understanding of what was going on around him, but he was able to tell the judge that he was going to give up his Heroin addiction. The judge responded that many people find this hard to do, to which the youth responded that he was “not like other people”. This case was heard before an adult court, and although the judge sought every opportunity to assist the youth, there was little he could do, other than to suspend his sentence with a 12 month good behaviour bond, and recommend that he seek treatment for his addiction, and also seek assistance from Intellectual Disability Services Council. So how likely is it that he will attend treatment - well, maybe he will, maybe he will overcome his addiction...maybe not. So if he ends up in court again during the next twelve months (eg. before his good behaviour bond is up) which seems likely, he will end up in jail. And what will that be like for a person of a mental age of 8? What will his experience of prison be like, will he experience mental and physical abuse? How will it change him? What kind of person will he be when he emerges? What exactly do we achieve by imprisoning someone who is obviously mentally ill?

A positive sign is the Diversionary court, started 25 August this year, and involves mental health service providers. A person referred to this court does not need to make a plea. The service providers suggest a plan for treatment/supervision, the magistrate then refers the detainee to the relevant service/s. The success or failure of this course of action is assessed a couple of months later. This is a positive step to address the disadvantage faced by people with mental illnesses coming before the courts. It remains to be seen how it works in practice, but at this stage it looks promising.

Finally, what effect does contact with the justice system and imprisonment have upon the mental health of Aboriginal people?

The high rates of incarceration of Aboriginal people, repeated arrest and incarceration, adverse experiences with the criminal justice system, the poor relationship between Aboriginal youths and the police, the separation from family that results from incarceration, the differences between Aboriginal law and non-Aboriginal law ... these are just some of the aspects of the criminal justice system that have an impact upon the mental health and wellbeing of Aboriginal people.
There’s a vicious cycle at work here – social disadvantage and oppression leads to poverty, family breakdown, depression, and mental illness. Each of these factors can be linked independently to offending, but in combination the effect on offending rates is multiplied. In addition to this, the social conditions faced by Aboriginal people are such that Aboriginal people have a higher prevalence of mental illness, this prevalence is further increased by high incarceration rates.

In a population where incarceration rates have been so high for so long, we need to consider what the effect of this is upon the next generation – the impact does not end with the generation that is in prison now ... the impact will continue to be felt by every child who has been deprived of a parent, who has seen their parent locked up, who has known what it is to fear the justice system. We know that Aboriginal women are far more likely to be imprisoned than non-Aboriginal women ... we also know that imprisonment of a mother is more damaging for a child than imprisonment of a father. A child whose parent goes to prison has committed no offence, however, when a mother is given a jail sentence, a child is given a life sentence.\(^9\) We are already seeing the effects of family separation in those families who were divided by the assimilation policies of the past – yet while the government deeply regrets this shameful past, Aboriginal families are being divided by incarceration in the shameful present.

The recommendations of the Royal Commission that are easiest to implement are those that seek to prevent an inmate from harming themselves. If someone seeks to end their own lives, they are isolated and all opportunities for self harm are removed. We all know that this is not the solution ... such measures may be necessary in the short term, but in the long term it doesn’t solve the problem, it doesn’t address the depression or circumstances that led someone to that point of desperation and may have made it worse. The recommendations that address the bigger issues are much harder to address. The issues of self determination (or the lack of self determination), land, and socio-economic disadvantage are the vital underlying causes of so many of the inequalities faced by Aboriginal people, inequalities in health, education, over-representation at all stages of the justice system, and ultimately, too many people dying, and dying too young.

Because I speak about indigenous community expectations, I raise the issue of the number of deaths within the community – the problem is not just in prisons, but in communities where levels of alcoholism, chronic and preventable illness, violence, and infant mortality are amongst the highest in the fourth world. The statement that is on everybody’s lips is that we are living in a lucky country, and I would say, lucky for who?

Pat Dodson summed it up in his recent Vincent Lingiari lecture, when he quoted Frank Hardy’s book, *Unlucky Australians* “…Will I having written it, be free to turn to other books and obsessions, will you, having read it, be free to turn to the pursuit of happiness, will the lucky country remain free while the lucky Australians are in chains.”\(^{10}\)

---


CROSS CULTURAL AWARENESS TRAINING

Ken Wano
Townsville Correctional Centre, Qld

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Purpose

The Department of Corrective Services, Queensland, is required to provide Cross Cultural Awareness training to staff. The provision of training endeavours to address Royal Commission into Aboriginal Deaths in Custody, Recommendations, (96), (97), (155), (177) and (210).

A position of Senior Training and Development Officer, Aboriginal and Torres Strait Islander Issues, was created at the Training and Development Centre, Wacol. The position was recruited to in May 1995 within the Human Resources Development Unit. The principle responsibility of the position to formulate, co-ordinate, and deliver an appropriate training program to address the needs of cross cultural awareness for the Department of Corrective Services.

Background

An extensive consultation process occurred with internal and external stakeholders to ascertain the appropriate material to be included in the program. Stakeholders included inmates, staff, community organisations, education institutions, and other government agencies. It was vital to ensure the program was relevant and tailored toward Queensland corrections.

The Queensland Government developed a whole-of-Government approach to addressing Recommendation 210. This Recommendation directs all State Governments to provide cross cultural awareness to all government employees who have contact with Aboriginal and Torres Strait Islander clients. The Department of Employment Training and Industrial Relations (DETIR), is responsible for the provision of a generic government cultural awareness training program. The program developed by DETIR, "Mura Arna Waakana" was provided to all agencies in March 1996. Agencies are responsible to adapt the program further to benefit their workplace and individual needs.

From the consultation process and the "Mura Arna Waakana" program, the Senior Training and Development Officer formulated a program for use in April 1996. "Many Cultures, One Spirit" is the name of the program conducted by the Department of Corrective Services from 1996 -1999. Approximately 2,300 staff have participated in the program.

The title of the program typifies one objective of the program. To inform participants of the diversity within Aboriginal and Torres Strait Islander society, and to identify the fundamental cornerstone shared by all, the spiritual links to the Lands and the Seas.

The Program

"Many Cultures, One Spirit" is a two (2) day program. The learning style incorporated into the program is based on developing the participant to have an affinity with "what is culture?". Participants examine their own cultural development, defining how they develop a cultural way of life, how culture is passed on and how cultures change and adapted to survive. Further examining the need for some people to live a cross cultural lifestyle and the perceived barriers that can occur, especially during the communication process.
Experiential activities and techniques are used in the program to emphasise to participants how "cultural conditioning" occurs, and how it shapes an individual's view and interpretation of the world. To incorporate the concepts of cross cultural lifestyles, the indigenous facilitator shares experiences of their own cross cultural upbringing, lifestyle and experiences. The sharing of personal stories has proved the most effective way of demonstrating the difficulties faced by people living two cultures.

These processes occur in the beginning of the program, they have proved effective in preparing participants to comprehend and appreciate the origins of Aboriginal and Torres Strait Islander cultures, and the present contemporary issues faced by indigenous Australia. Emphasising the difficulties that have occurred with the cultures' adjustment to a totally dissimilar and dominate culture, in order to survive. At this point of the program the reasons for the high rate of incarceration of indigenous persons are identified.

The content of the program includes:

- What is culture?
- What is cross culture?
- Aboriginal and Torres Strait Islander Background and History
- Royal Commission into Aboriginal Deaths in Custody
- Aboriginal and Torres Strait Islander Contemporary Society
- Stereotyping and Prejudice
- Communication strategies
- Contemporary values and belief systems
- Cultural issues impacting on indigenous inmates, offenders and juvenile detainees
- Defining solutions to effectively manage indigenous inmates, offenders and juvenile detainees
- Use of guest speakers

Participants are provided the cultural context of the various "Murrie" programs and management strategies within their respective centres. Programs such as:

- Family Support;
- Elders visits program;
- Traditional smoking ceremonies;
- Buddy up systems;
- Traditional healers;
- Cell visitors;
- Indigenous sexual health programs;
- Murrie chaplaincy program; and
- The indigenous mental health programs.

Identifying the key cultural links to these programs have provided staff with an understanding of the purpose and need of the programs, to assist with the provision of duty of care.
The major objective of the program is to assist participants develop strategies to communicate effectively with indigenous inmates and offenders, the assessment component of the program is centred on these issues.

**Delivery of Program**

Approval was granted by the Executive of the Queensland Corrective Services Commission in 1995, to include the program in the mandatory training schedule. The program was then marketed to all directorates of the organisation. Essentially, the organisation had to make available all staff to participate in a two (2) day program. Extensive consultations occurred with managers and staff development officers to develop the logistics involved in the provision of the two (2) day program.

Delivery of the program commenced with pre-service courses for Custodial Correctional Officers in 1995. The program is now a permanent subject of the course, and forms part of the assessment process for appointment. Once appropriate time frames were developed, Correctional Centres, Community Corrections Regions, Central Office and Juvenile Detention Centres (when merged with the organisation) commenced the program.

Initially all delivery was conducted by the Senior Training and Development Officer. To assist with the delivery of the program and to develop a training base in the organisation. Expressions of Interest were sought from Aboriginal and Torres Strait Islander staff to become accredited facilitators. After gaining successful accreditation, they were utilised by their workplaces to conduct the training. Directives from DETIR determined all facilitators of cross cultural awareness programs are to be of Aboriginal and/or Torres Strait Islander heritage.

The accreditation process required participants to successfully complete the VETEC Train the Trainer Category (2) program, which is offered through the Departments Training and Development Centre at Wacol. On the job assessment was then conducted by the Senior Training and Development Officer, Aboriginal and Torres Strait Islander Issues. Since 1996 31 indigenous staff have been accredited.

**Impact on the Department of Corrective Services**

The program is incorporated within the workplace competencies of the Department. As part of this process, it has become a unit of learning for the Diploma of Justice Administration. Providing an alternative method of delivery for competencies relating to managing Aboriginal and Torres Strait Islander inmates.

The cross cultural awareness training program does not only endeavour to meet the legislative requirements pertaining to Royal Commission into Aboriginal Deaths in Custody recommendations. It forms part of a system of operation by the Corrective Services agency, to enhance the duty of care required to manage indigenous inmates and offenders in an appropriate manner. For example, providing the cultural context on indigenous lifestyles and belief systems that have formulated into "Murri" programs, have provided a level of understanding to non-indigenous staff of the cultural support systems needed to ensure duty of care. Annual follow up training is being developed to ensure staff receive regular contact to build on the knowledge base established from the two (2) day program.
The Future

The need for an evaluation of programs and services delivered to Aboriginal and Torres Strait Islander prisoners, and the need for culturally appropriate needs based programs for offenders was subject for comment by Mr Frank Peach in his review of Corrective Services in Queensland. Mr Peach described Queensland Corrective Services legislation in relation to Aboriginal and Torres Strait Islander programs and services, as "reasonably described as culturally blind." Ongoing cultural awareness training to staff, at all levels of the organisation, Executives, Policy makers, Managers, program deliverers, community and custodial officers, will enhance the development of appropriate workplace practices, needed to address the Aboriginal and Torres Strait Islander issues identified in Mr Peach's review.

Fundamental to the programs success, is to ensure the facilitator inspires participants to develop self learning outside the class room. This learning will greatly enhance the objectives of the Royal Commission into Aboriginal Deaths in Custody Recommendations, relating to cultural awareness training to staff of the Department of Corrective Services.

References

Johnston, E, 1990, RCIADIC, National Report, Volumes 1 - 5, Australia Govt. Publication Services, Canberra.

AN OVERVIEW OF THE THEORY OF DIVERSION:
NOTES FOR CORRECTIONAL POLICY MAKERS

Associate Professor Rick Sarre
University of South Australia

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Introduction

In order for practitioners to divert successfully Indigenous Australians from vortex-like aspects of the criminal justice system, it is important for them to have an appreciation of the difficulties that have beset the attempts of their predecessors. It is also important to explore alternative paradigms that may better deliver the desired outcome, namely some reduction in the over-representation of Indigenous Australians in police cells, court lists and prisons populations. This paper looks firstly at the reality of over-representation in the context of the findings of the 1991 Royal Commission into Aboriginal Deaths in Custody. It then reviews the aims of diversionary theory, and analyses its apparent failure to deliver on its promises. The paper finally previews the possibilities associated with embracing the ‘restorative justice’ paradigm for those seeking to re-enliven the theory of diversion by aligning it with principles of Aboriginal ‘community’ justice.

The Royal Commission into Aboriginal Deaths in Custody

The A$40 million Royal Commission into Aboriginal Deaths in Custody, which concluded in 1991, was a milestone down the continuing road of criminal justice reform in this country. Commissioner the late James Muirhead took the view that the Royal Commission should investigate not only how the 99 deaths under scrutiny occurred, but also why they occurred. Thus, it was determined that the Royal Commission should include in its terms of reference a range of underlying issues, including social, cultural and legal factors which appeared to contribute to disproportionate Aboriginal arrest, detention and imprisonment rates (Office of Indigenous Affairs 1994; Cunneen and McDonald 1997a, 1997b).

Among the factors considered by the Royal Commission was the imposition of custodial sentences. Its concern was especially with the following issues:

- Is imprisonment seen as a last resort?
- Are alternatives such as community service orders realistically available to Aboriginal people?
- Are such alternatives appropriate to Aboriginal communities, and do they set unrealistic expectations that lead, ultimately, to an increase in the incidence of offenders being placed in custody?
- Are legal aid services available and adequately funded?
- Are legal processes comprehensible to Aboriginal people?
- Do legal officers and the judiciary know enough about Aboriginal culture to be able to fix more effective penalties and impose more workable conditions on the release of offenders, which do not unwittingly encourage further offences?

The Final Report of the Royal Commission was published by later Commissioner Elliott Johnston. One of the key findings of the Report was simple and unequivocal.

The first strategy to reducing the number of deaths in custody is to reduce the number of Aboriginal people coming into custody in the first place. (Royal Commission 1991: 133)
339 recommendations followed. In the final analysis, much attention was paid to reducing the numbers in custody through diversion from police custody and the use of imprisonment as a last resort. Strategies to address the former issue included decriminalisation of certain offences including public drunkenness, improved and culturally relevant use of community policing, increased use of community-based options including cautioning as an alternative to arrest, and changes to bail provisions and procedures. Recommendations in relation to the use of imprisonment as a last resort\(^1\) included strategies such as expunging past convictions, community service alternatives, increased legal aid funding, and appropriate non-custodial sentencing options capable of implementation in consultation with offenders' communities. Home detention was particularly recommended as an option both for sentencing and as a means of early release. The use of community service orders, probation and parole, and the use of fines were all given limited endorsement, as long as the use of these alternatives neither disadvantaged Aboriginal offenders in relation to other opportunities, nor placed them disproportionately at risk of further imprisonment for defaulting.

**The current criminal justice landscape**

Sadly, the position of Indigenous Australians vis-à-vis the Australian criminal justice system identified by the Royal Commissioners has hardly changed in the seven years since the Final Report was published. Suspicions were in place in the three years following (Walker and McDonald 1995) and since. Despite commitments to implement the recommendations and a raft of new ideas and programs to ensure progress was made (eg. Australia 1994, South Australia 1994, Royal Commission Government Response Monitoring Unit 1997), the presence of Indigenous peoples in Australian police cells, criminal courts and prisons, when compared with non-Indigenous Australians, remains wildly disproportionately. Australia's Indigenous peoples represent almost 2% of the Australian population\(^2\) but, at 30 June 1997, they made up approximately 3,000 of Australia's 18,400 prisoners, that is 17 %\(^3\), up from 14.6 % a decade ago (Brown 1997: 197). Between 1988 and 1995 imprisonment of Indigenous Australians increased 61%. Non-Indigenous imprisonment rose 38% in the same period (Social Justice Commissioner 1996). The jurisdictional breakdown of the various percentages of Indigenous populations compared with imprisonment percentages is shown in Table 1 below.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>% Indigenous population</th>
<th>% prisoners who are Indigenous</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>1.5%</td>
<td>12.7%</td>
</tr>
<tr>
<td>Queensland</td>
<td>3.2%</td>
<td>24.5%</td>
</tr>
<tr>
<td>South Australia</td>
<td>1.6%</td>
<td>18.0%</td>
</tr>
<tr>
<td>Victoria</td>
<td>0.5%</td>
<td>5.0%</td>
</tr>
<tr>
<td>Western Australia</td>
<td>3.2%</td>
<td>33.4%</td>
</tr>
<tr>
<td>Tasmania</td>
<td>4.0%</td>
<td>12.9%</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>28.4%</td>
<td>72.4%</td>
</tr>
<tr>
<td>Australia</td>
<td>1.9%</td>
<td>17.0%</td>
</tr>
</tbody>
</table>

*Table 1: Percentage Indigenous populations and prisoners per jurisdiction*


---

\(^1\) Recommendation 92 (Royal Commission 1991)

\(^2\) Approximately 370,000 persons. Refer Mukherjee *et al* 1998.

\(^3\) An increase from 1994-5 of 6.6 %. Refer Sarre 1999d.
In South Australia, as at June 30 1997, there were 151 Aboriginal men and 19 Aboriginal women in SA prisons, being 10.7% of the male prison population and 20.6% of the female prison population. When reviewing the daily average for the first half of 1997 these percentages climb to 16.9% and 28% respectively (Australian Bureau of Statistics 1998)\(^4\). Across the nation an Indigenous Australian adult is now at least 13 times more likely to be in custody than a non-Indigenous Australian adult. In 1997, 1,620 per 100,000 Indigenous Australian adults were in prison\(^5\), compared with an imprisonment rate of 126 per 100,000 for Australians generally\(^6\).

Sentence length does not appear to be a factor in high imprisonment rates. In fact, prison sentences of Indigenous Australians are usually shorter than the average. 62.1% of Indigenous prisoners in Australian prisons are expected to serve sentences of 24 months or less. The percentage of prisoners generally who serve sentences of this length is 53.7% (Australian Bureau of Statistics 1998: 28, 72).

Levels of over-representation in police custody also remain high. In 1995 the rate of Indigenous Australians in police custody was 2,228 per 100,000 population compared to 83 per 100,000 for non-Indigenous Australians (McDonald and Cunneen 1997: 92). Hence, Aboriginal and Torres Strait Islander peoples found themselves in police custody rates at approximately 26 times the rate of non-Indigenous Australians. The over-representation peaked in Western Australia at 39 times (Cunneen and McDonald 1997a: 21). There is little reason to suspect any recent variations to these 1995 figures (Carcach and McDonald 1997).

In relation to remand in custody, Aboriginal over-representation is apparent in all jurisdictions. Despite a commitment of governments to attempt to remand Indigenous Australians into non-custodial options, it is simply not happening. For example, in South Australia, 20.4% of prisoners remanded in custody currently awaiting trial are Indigenous (Bamford et al 1990). The over-representation of Indigenous remandees in South Australia at 30 June 1998 is 23.4 times (South Australia 1999a).

Between 1989 and 1996 Indigenous Australians were 16.5 times more likely than non-Indigenous Australians to die in custody (Social Justice Commissioner 1996)\(^7\). There have been more Aboriginal deaths in custody in the nine years since the Royal Commission than during the nine and a half years examined by the Commissioners (South Australia 1999a).

So while the numbers of deaths in police lock-ups appear to have been reduced Australia-wide, perhaps because new, clearer guidelines dictate how an Aboriginal person must be treated when first taken into custody (Council for Aboriginal Reconciliation 1994a, 1994b: 23, McDonald

\(^4\) Over-representation in South Australia at 30 June 1998 was 20.7 times. Aboriginal females now account for almost 1 in every 2 of total female intakes to prison (South Australia 1999a).

\(^5\) June Quarter 1997 Australian Bureau of Statistics figures.

\(^6\) In Western Australia in 1997 the Indigenous imprisonment rate was 2,477 per 100,000 (ABS 1997: 4).

\(^7\) This confirmed the findings of earlier studies that showed an average of 10.5 Aboriginal deaths in custody annually since 1989, the same as the average during the period covered by the Royal Commission (Biles and McDonald 1992; Australian Institute of Criminology 1994: 2). The position is far from clear, however. Dalton (1998a, 1998b) has found in her research that while the numbers of Indigenous deaths in all forms of police custody - and deaths that occur in the process of persons being taken into custody - have remained stable since 1990, prison deaths have declined since 1995. During 1996 the relative risk of death in prison for Indigenous prisoners was 1.3. By 1997, the figure had dropped to 0.52 (Dalton 1998b: 8). In 1997 Indigenous prisoner deaths, however, still made up more than 13 per cent of custodial deaths (Dalton 1998a: 8). From June 1996 to June 1997, however, there were no Aboriginal deaths in custody in SA (source: Royal Commission News: ALRM and AJAC, RCIADC Independent Monitoring Newsletter, July/August 1997 # 43/44).
and Cunneen 1997), little has changed on just about every other front. Indeed, the situation, especially in relation to so-called 'public order' offences is now worse than before the Royal Commission (Jochelson 1997), especially in the Northern Territory and Western Australia, where specific legislative sentencing provisions appear to be targeting young Aboriginal Australians (Flynn 1997, Palmer 1997, Schetzer 1998, O'Shane 1999). What has happened? How could all of those good diversionary ideas and practices fail to deliver what their proponents promised?

**Diversion as a means of reducing over-representation**

The answer to that dilemma may lie in the notion of diversion itself. The history of this notion, of course, begins much earlier than 1991. The reformers of the 1970s, based essentially in North America, sought to reduce prison numbers by diverting those heading in that direction into other non-custodial options. The impetus for change came from a combination of factors including high prison numbers, high recidivism rates, high costs, and the negative impacts of conventional methods of punishment on rehabilitation and reintegration of offenders into wider society. There was a real sense that there was a penal crisis looming, and that only by some drastic measures would it be averted (White and Perrone 1997). Offenders who would normally have been incarcerated were to be diverted away from prison. It was as simple as that.

There is, however, a widely held view of these reforms, two decades later that their achievements were not always beneficial and indeed were, at times, counter-productive. There is a constant danger with diversionary programs that people who are diverted from formal agencies of social control are more often directed into a less formal - but no less bureaucratic - apparatus rather than away from the system entirely. Indeed, some people who would have avoided custodial options altogether may nevertheless be drawn into it by well-meaning 'diversionary' practices. This has become known as the 'net-widening' effect (Greenberg 1975, Blomberg 1977, Austin and Krisberg 1981, Tomaino 1999a: 172, 1999b: 198). Stanley Cohen made the following observation about diversion and net widening in 1985:

"Leaving aside for the moment questions about causality, consequence and failure, the size and density questions can be answered quite simply:

1. There is an increase in the total number of deviants getting into the system in the first place and many of these are new deviants who would not have been processed previously (wider nets);
2. There is an increase in the overall intensity of intervention, with old and new deviants being subject to levels of intervention (including traditional institutionalisation) which they might not have previously received (denser nets);
3. New agencies and services are supplementing rather than replacing the original set of control mechanisms (different nets).

No one who has listened to the historical tales ... should be altogether surprised by any of this. But these patterns need careful scrutiny, are not always self-evident and ... are never easy to explain". (Cohen 1985: 43-44)

One of the problems with diversion is that it can, at times, result in *increases* in the number of people and range of behaviours subject to official control, when the idea was to *reduce* numbers.
Three examples of diversionary disappointments

Let me give three examples of the phenomenon in recent South Australian history. The decriminalisation of public drunkenness in South Australia in 1984 provides the first example of a clear net-widening effect. This legislative move precipitated a significant rise in the frequency with which disadvantaged individuals, particularly Aboriginal Australians, were apprehended and held in police cells, albeit now for reasons of 'welfare' rather than public order (Office of Crime Statistics 1986; Bird 1987). Net-widening occurred because formal prosecution papers no longer needed to be prepared, and hence one of the major disincentives for police to intervene in the life of an inebriated person had been removed. Simply stated, it was far easier to direct drunks to a diversionary program than to take them to court. Consequently, more Aboriginal people came under the direct gaze of the criminal justice system than before the reform.

Another example is the suspended sentence. This initiative was introduced into sentencing practices in the UK, USA and Australia in the 1970s as a mechanism designed to reduce prison numbers (Bottoms 1979). The power to suspend9 was introduced in South Australia in 1970 by an amendment to the old Offenders Probation Act (SA) 1913-71 (Mitchell Committee 1973: 140). It is documented in the law reform literature that the suspended sentence can be a means by which prison numbers are reduced (Australian Law Reform Commission 1979). The dilemma is, however, that suspensions have not been used to mitigate the punishment for those who would have gone to prison in the normal course of events. Rather, suspended sentences have been used as an ‘add-on’ for offenders who were unlikely to be imprisoned (Fox and Challinger 1985, Tait and Polk 1988). There is some suggestion that sentencers might indeed give longer suspended sentences to offenders than would have been given had custody been inevitable (Australian Law Reform Commission 1987a: 1987b: 36). Then, since infractions of good behaviour bonds do occur regularly10, thereby activating dormant prison sentences, the correctional system is faced with an increasing number of people who may, potentially, be facing prison, that is, the exact reverse of the aim of the exercise (White 1973, Sarre 1984: 183; Searle et al 1998).

The third example is the ‘family conference’ for youth offenders under the Young Offenders Act (SA) 1993. It has long been thought that those ‘diverted’ from court by the program would have been likely to stay out of court anyway (Sarre 1999a). That is, one may have suspicions that there are many candidates for cautions that find their way into a formal family conference by well-intentioned but misplaced beneficence (Polk 1994). The conference option has made only a slight difference to the numbers of matters being referred to court (the court attendance figure is three times the anticipated one), possibly because the legislation excludes serious cases from conferences11. Nor have these reforms had any effect in reducing the rates at which Aboriginal youth are being caught up in the juvenile justice system (Atkinson and Dagger 1996). Aboriginal youth are 1.7% of the South Australia's youth population but they

---

9 An offender receives a prison term which is not put into operation unless and until there is a breach of a good behaviour bond. Refer Sarre 1999c.

10 Sherlock (1970) put the figure 30 years ago in the UK at 83%.

11 Simply stated there appears to have been a diversionary effect but it has not been as high as anticipated (Sarre 1999a).
still make up 14% of all apprehension reports. The degree of over-representation for Aboriginal females is almost double that for males. In a 1996 review of the legislation, the Director of the Office of Crime Statistics made the following observation.

"... Aborigines accounted for 7.2% of all cautions, 12.4% of all referrals to a family conference and 19.3% of all referrals to the Youth Court. Their level of over-representation therefore increases as they move deeper into the system. A similar situation applied under the old system." (Wundersitz 1996: xx)

Discussion

One might suspect that correctional interventions and diversions in response to the ideas put forward by the Royal Commission have failed because of some of the factors identified above. Correctional policy-makers may need to give greater cognisance to the threat of net-widening and diversionary 'counter-productivity' in their theoretical conceptualisation (Polk 1987) and the implementation of diversionary programs (Sarre 1991). Of course, by the time a person is to be received by corrections, diversionary schemes that should have been in place 'upstream' have already failed, and that being the case, attempts at diversion 'downstream' are always going to be problematic.

This is not to say that all attempts to divert Indigenous, or indeed any other, offenders from the formal criminal justice system processes should be abandoned. Rather, they ought to be re-considered and re-enlivened, giving greater credence to the potential for insight offered by the paradigm of restorative justice.

Diversion in the context of restorative justice

The notion of restorative justice, or 'relational' justice as it is known in the United Kingdom, has been a topic of particular interest amongst justice practitioners and academics in the last fifteen years. But the concept has been recognised for a hundred years and its roots lie in antiquity.

In 1977, psychologist Albert Eglash coined the term 'restorative justice', writing:

"The reparative effort does not stop at restoring a situation to its pre-offence condition, but goes beyond: Beyond what our own conscience requires of us, beyond what a court orders us to do, beyond what family or friends expect of us, beyond what a victim demands of us, beyond any source of external or internal coercion, beyond any coercion into a creative act, where we seek to leave a situation better than it ever was". (Eglash 1977: 95)

---

12 There is also reference from time to time to 'alternative' justice, 'community' justice, and 'transformative' justice, refer Zehr 1985, Sarre 1999b, Van Ness and Strong 1997.
13 Since the 12th century in English law, the criminal justice system has been premised upon the state taking action against offenders, a legacy of the Norman conquest in 1066. Prior to that time, victims or their kin pursued private actions in an endeavour to 'restore' the parties to the positions they had been in prior to the offence. Victims took the lead in organising the communal reaction to law-breaking, and the desire for compensation was probably at least as common as the urge to retaliate. Victims eventually lost their central role in the justice process when formally organised governments emerged and began to assert their authority. Crime became a crime against the state, the key features of punishment became deterrence and retribution and victims were referred to the civil courts, not the criminal courts, for their grievances to be heard (McDonald 1986a: 1, 1986b).
Restorative justice soon emerged as a legitimate justice model,

"... designed to provide the context for ensuring that social rather than legal goals are met. The expected end result is that communities and individuals are empowered in dealing with their problems and in influencing the direction of the criminal justice process, so formal punishment and incarceration become less relied upon sanctions". (La Prairie 1995: 78)

The principles are often expressed in different ways, but some clear themes emerge. In models of restorative justice, there is

1. Shared responsibility for resolving crime and for one another
2. The use of informal community mechanisms and consultation in formulating solutions
3. The inclusion of victims as parties in their own right
4. An understanding of crime as injury, not just law breaking
5. An understanding that a state monopoly over the response to crime is inappropriate (Justice Fellowship 1989: Part I, 21)

The ‘success’ of a justice system based upon restorative notions is not measured by the final outcome or legal result,

"but rather by the degree to which people feel they have an impact, that they have been treated fairly, that they have understood each other, that they have better mechanisms for making decisions and handling their differences, and that their key issues have been addressed ... If successful, the participants feel that they are a valued part of their community". (Lederach and Kraybill 1995: 368)

One theorist has referred to restorative models as having ‘legitimacy’ through the willingness of participants to accept the justice system if it recognises crucial relationships (Bottoms 1994: 58).

It is my view that policy-makers ought to re-define and re-enliven diversionary practices so that they incorporate restorative justice principles. To a large degree, one could argue that the current range of community justice initiatives alive in South Australia are restorative, and offer clear insights into the sorts of diversionary schemes which are more likely to deliver what their advocates promise. In the Aboriginal Community Justice ‘scoping’ document (South Australia 1999b) is found a range of projects that are designed to build partnerships with the community, "that foster understanding, involvement and ownership in criminal justice system processes and programs" (1999b:i). The report contains a long list of initiatives designed to encourage the use of informal mechanisms to solve justice issues within Indigenous communities themselves (including tribal law14) rather than rely upon the formal processes of the law. The list of consultative programs continues through the 1999 report of the Aboriginal Justice InterDepartmental Committee (South Australia 1999c). Of particular

---

14 There is a good case to be made for the greater recognition of Indigenous or tribal law in sentencing (Royal Commission 1991: recommendation 104). “Recognition must be given ... to the existence (and survival) of customary law. As Indigenous cultures are organic (rather than static), customary law may exist (albeit in an evolved/evolving format) in contemporary communities, as well as in their more traditionally orientated counterparts. As Australian society examines socially just ways of dealing with its Indigenous peoples, and as Aboriginal and Torres Strait Islander peoples continue to demand the right of more culturally appropriate responses, the importance of customary law cannot be underestimated” (Social Justice Commissioner 1995: ¶31, also Sarre 1997, 1998).
interest are the Aboriginal Court Day, Community Healing Centre, the Community Justice Orders and the Community Sentencing Panel, the purpose of which is to redefine Aboriginal community justice …

"within broader criminological and socio-political concepts – Restorative justice and Aboriginal self-determination – and binds together a rich spectrum of Aboriginal justice workers, programs and initiatives within this context of Aboriginal community restitution.” (1999b: 28)

An example of a diversionary mechanism that has been re-defined within the community justice paradigm is the Aboriginal conferencing team recommended in 1996 (Wundersitz 1996: 125) and reported enthusiastically in 1999 (South Australia 1999b: 8-9).

It is argued in this paper that diversionary schemes are far more likely to be effective and to avoid the failures of implementation and contradiction that have dogged their forebears if they are framed within the context of Aboriginal community justice rather than imposed by bureaucracies (eg. Chantrill 1998). To that extent all policy-makers, correctional or otherwise, should alert themselves to the possibilities of restorative theory and to examine the potential for re-shaping diversionary schemes to aim for community justice goals.

Conclusion

There is a massive over-representation in the criminal justice system by Indigenous Australians. Racial disparity in punishment is not a new phenomenon, of course. It has been described as an inevitable and predictable by-product of any society where a certain race finds itself coming to the attention of police in disproportionate numbers (Blumstein 1982). While there may be some logic in that proposition, the strong suspicion remains that discrimination in justice practice (Myers 1993) and poor diversionary implementation (Sarre 1991) or ineffective evaluation (Sarre 1994) all play an essential role in the final outcome.

Whatever the reasons, the situation in Australia today remains untenable. The current social and criminological literature provides a sober warning. Facets of the Australian criminal justice system will have to change, or Australians will face a static or growing race-based disproportionality. Policy-makers must re-enliven diversionary practices so that they have the desired effect. This can best be done if community justice initiatives are explored more seriously, as part of a broader restorative justice paradigm shift, along with greater political zeal towards a self-determination agenda (eg. Brennan 1993).

Restorative concepts must be embraced, and the dilemmas tossed up by diversionary failures must be addressed, if there is to be significant movement away from the grim realities of the contemporary criminal justice experience of Indigenous Australians. Only in this environment will the most appropriate responses be developed to ensure that Australia's Indigenous peoples do not continue to be caught up in justice systems that espouse sentiments that they deliver justice and equality to all Australians, while doing exactly the opposite.
References


ADCA, (1996b) Best Practice in the Diversion of Alcohol and other Drug Offenders, Canberra: The Alcohol and Other Drugs Council of Australia, October 1996.


Cunneen, C. and D. McDonald. (1997a). Keeping Aboriginal and Torres Strait People out of Custody. Canberra: Aboriginal and Torres Strait Islander Commission.


Office of Crime Statistics (1986). Decriminalising drunkenness in South Australia, Research Bulletin No. 4, South Australian Attorney-General’s Department, OCS.


Sarre, R. (1984). The Orwellian Connection: A Comment on Recent Correctional Reform Literature, Canadian Criminology Forum 6 (2) 177-188.


GIRRAWAA CREATIVE WORK CENTRE
BATHURST CULTURAL PROGRAM

Joanne Selfe
Bathurst Correctional Centre, NSW

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
I would like to acknowledge the Elders and members of the local Indigenous community for we are meeting on country for which they are the custodians.

“Ginge Ella Witha Byan- Boogie Bear”

Economic independence is essential to reconciliation. In a Correctional Environment, it's a focus for rehabilitation. The Girrawaa Creative Work Centre has been established to promote work and its importance to individual and community. It recognises the barriers to employment and business opportunities for Aboriginal Australians.

An important component of the ‘Action Plan for the Management of Indigenous Offenders 1996-98’, its unique design evolved from consultation with the Indigenous Inmates Development Committee and representatives of the Wiradjuri people. The Centre provides a unique balance of cultural, educational, vocational workplace and business management skills. It gives new hope that Indigenous inmates will develop their own cultural and personal identity.

Our greatest hope is that inmates will acquire skills that will contribute to their economic independence and their successful return to the community.

Vocational education is provided with emphasis on literacy and numeracy. It is in a non class room environment and a manner sensitive to Aboriginal culture. The Centre provides for the diverse range of creative technical endeavours from art to carving, from woodwork to theatre, from photography to artefacts. Opportunities will broach marketing and business management.

Skills learnt within the Correctional Centre will translate to the general community on release. Corrective Services Industry (CSI) has provided the capital cost of this Centre and seed funds for its operation. It’s a direct outcome of the commercial focus within CSI over recent years.

This commercial focus is fused into the program structure of the Girrawaa Centre. It is a key element in providing workplace and business management skills to Indigenous Inmates. It’s a new approach and has been developed through all stages with great enthusiasm and cooperation as a very practical demonstration of Reconciliation in action. But its success cannot be judged on unique architecture, by innovations within its walls or our boast of a Correctional first.

Success can only be measured by the return to the community of its participants.

Girrawaa- a place to create, a space to own

A goanna frozen in time and space raises its head to peer across the landscape of Bathurst and its valley. Aboriginal inspiration spreads its evocative influence in architecture. The Girrawaa Creative Work Centre is an exciting and innovative CSI development and an Australian first. Girrawaa means goanna in the Wiradjuri language. The Wiradjuri are the people of the Bathurst area and Girrawaa is their totem. With inmates coming from tribes all over the country, the spearhead binds together Indigenous Australians. Its unique design was created by the men who’ll work in it. When they were both in Bathurst, Jason consulted his cousin Don. They agreed on the goanna design and put it on a piece of land like a spearhead. Their early sketch was part of a small revolution in Corrections for Indigenous Australians.
Architect Dennis Kombumerrie a QLD Murri, took up their sketch to create his design. A raised section features a studio, a large ocular intended to showcase creative endeavours. The roof resembles the skin of the goanna, similar to a lace monitor with blue grey background roofing and yellow stripes of translucent daylight strips.

To ensure a sense of place and links to the local community, another influence on the design is the Burbung Ceremony.

A traditional ceremony performed by the Wiradjuri, it initiated boys into manhood and has contemporary meaning for inmates who see a role for themselves as mentors for youth in the wider community. Every thing in the centre has Koori approval.

Says Jason; “Visitors will be introduced to Aboriginal culture in a non threatening way, through dance, through performance, there’ll be traditional tucker and they’ll learn how the Dreamtime stories link into a culture. Dance is a re-enactment of history and ensures it continues from one generation to the next generation. There are Koori kids who know nothing of the culture. With white Kids, it will provide a friendly, non threatening introduction before negative stereotypes go into play. Breaking down prejudice is about knowledge and education.”

Indigenous skills don’t easily emerge from a prison system or get encouraged by it. Until now, Aboriginal art and craft in prison has been sold and swapped among inmates. But there’s rarely been any chance to realise potential. Says Jason: “A lot gets thrown off, other inmates might buy it or they sell it off. It just gets lost. I’ve seen chaps who can paint brilliant artwork but they’re got no idea how to sell it and they’re exploited.”

Says Jason “I really want this joint to work. There’s some real unfortunate Aboriginal males in here and they know they’ve got hidden talent. All they need is enthusiasm.”

In Western NSW the Department has another initiative which is currently being developed. The establishment of the Second Chance Program Yetta Dhinmakaal meaning Right Pathway. While this program may be a first for NSW I am aware that the concept of working properties is not new as they operate in several locations around the country. However the Departments Corrective Services Industry has applied for external funding through the NSW Department of Education and Training for a position of Aboriginal Enterprise Development Officer (AEDO) to be located at the Centre serving both the surrounding Indigenous communities and the Centre to further enhance the economic independence of Aboriginal people in Western NSW.

The AEDO Program assists existing Aboriginal businesses, encourages new Aboriginal enterprise and employment initiatives and facilitates the development of small business skills within Aboriginal communities. In line with The Council on the Cost of Governments report, there is a need to establish additional programs to assist Aboriginal people to gain employment where there is no labour market. The AEDO Program provides employment in areas where there is no labour market to encourage growth in small business.

This partnership approach with the NSW Department of Education and Training and the NSW Department of State and Regional Development is new for our agency but essential if we are to honour and build on our commitments to the reconciliation process.
The program further develops the initiatives underpinning economic independence already in place within the Department such as those at the Girrawaa Centre at Bathurst but extends them directly into the Aboriginal community.

Through the Aboriginal Cultural Link Program Aboriginal inmates work in the Mutawintji and Kinchega National Parks in co-operation with the National Parks and Wildlife Service and the Traditional Owners.

A Works Release Program for Aboriginal women inmates researching and identifying Aboriginal women's sites is currently being negotiated. The skills gained from these programs will enable participants to apply for positions within the NP&WS.

The Aboriginal Pre and Post Release Program, the Mercy Camps and the Aboriginal Women’s Camp each in their own unique way are designed to help inmates make the transition from prison to the community.

Yet many of our remote communities continue to face economic decline and these are the communities to which many of our offenders are returned.

We claim as individuals and as a society, to be horrified about Indigenous Deaths in Custody and the over representation of Indigenous Australians in the system. Yet the tolerance of the broader community is made tremendously clear through our reluctance to pay additional taxes or to enforce a different allocation of government expenditure, so that as a community we could more adequately educate and support the families and individuals among us who are in need and adequately educate, value and renumerate the adults upon whom our communities depend on for safe keeping.

“And while abuse and violence cuts across all, social groups and classes, it is evident that ‘people cannot think clearly when they are ill, hungry or afraid’ Does it make any sense, therefore, that we tolerate increasing widespread unemployment and poverty, even when we know that as Gandhi taught us ‘Poverty is the greatest violence of all’ Stephanie Dowrick in her book “Forgiveness and other acts of Love 1997 Viking Penguin Books Melbourne 1997” Page243

The Council for Aboriginal Reconciliation has released the Draft Document for Reconciliation for public discussion by all Australians over this half of 1999. The Council is organising nation wide consultation meetings and is also encouraging people to organise their own discussions and send their views back to the Council.

The following National Strategies to advance Reconciliation are based on the Councils Draft Declaration for Reconciliation. The developed strategies will map out the steps we must take as we work together towards a reconciled nation. By supporting these strategies, governments, businesses, organisations and individuals from both Aboriginal and Torres Strait Islander peoples and the wider community can make practical commitments to Reconciliation. Partnerships between all sectors of our community are the best way to ensure that the draft Declaration for Reconciliation becomes a reality in peoples lives.
A National Strategy for Economic Independence will facilitate greater economic independence and self-reliance in the lives of Aboriginal and Torres Strait Islander peoples. It seeks to empower Aboriginal and Torres Strait Islander people and promote their human dignity. This strategy recognises that economic empowerment will not occur through welfare programs. The strategies will achieve its greatest success when it is built on partnerships between all sectors. This strategy would include:

- Better access to capital, business planning advice and assistance;
- Increased networking and mentoring opportunities;
- Better access to training and development opportunities;
- Promotion and encouragement of Aboriginal and Torres Strait Islander small Business;
- Greater strategic and integrated regional economic development plans;
- Fostering partnerships with the business community; and
- Reform of current government economic and funding programs for Aboriginal and Torres Strait Islander peoples.

These strategies can also be developed and implemented within a correctional environment particularly where they promote direct links to address community needs and promote economic independence.

A National Strategy to address Aboriginal and Torres Strait Islander Disadvantage aims for better outcomes in health, education, employment, housing, law and justice. Its objective is to achieve social and economic conditions for Aboriginal and Torres Strait Islander peoples which are the same as those enjoyed by other Australians. This strategy will get better outcomes from government and non-government services. It builds on the National Strategy for economic Independence.

Reconciliation requires practical and real steps to target the disadvantage experienced by Aboriginal and Torres Strait Islander peoples as a result of past injustices. Statistics show that we are the poorest, unhealthiest, least employed, worst housed and most imprisoned Australians. Having an impact here is what’s needed.

A National Strategy to Promote Recognition of Aboriginal and Torres Strait Islander Rights will be based on the principles that all Australians should share equal rights and responsibilities as citizens; should be able to participate, as we choose, in all levels of decision making on matters which affect us and our communities; and should enjoy equal social and economic conditions; according to our aspirations.

A National Strategy to Sustain the Reconciliation Process will be built on the existing Peoples Movement for Reconciliation. It will promote knowledge and understanding of the history of Australia and will assist Australia to celebrate the diversity of the origin of its peoples. It will acknowledge the cultural, social and economic contributions made by Aboriginal and Torres Strait Islander people to the nation. The strategy will describe how governments at all levels, organisations and community groups can recognise and adopt appropriate protocols, as well as establish symbols of reconciliation that reflect our shared history and culture.
In Each of the States and Territories discussions on these documents have been initiated. It is up to us to ensure our agencies are an effective part of the consultative process and the strategies that are developed.

RCADIC

It is important to remember that the establishment of the Council for Reconciliation was one of the final Recommendations of the Royal Commission into Aboriginal Deaths in Custody. The Royal Commission document has eighty seven (87) pages of discussion and seventeen (17) recommendations relating to Reconciliation.

The Royal Commission into Aboriginal Deaths in Custody continues to cause debate. In its examination of the Australian Government’s ninth periodic report in 1994, the UN Committee on the Elimination of Racial Discrimination commended certain developments, but noted other areas of concern. Those areas of concern included:

- Lack of cooperation from the States and Territories in implementing programs and strategies designed at a federal level;
- Continuing Indigenous disadvantage in education, employment, housing and health services;
- The rates of deaths in Custody;
- The extent of social problems such as alcoholism, drug abuse and the incarceration affecting Aborigines.

Aboriginal legal aid remains comparatively under-resourced; interpreter services minimal; there is a continued emphasis on 'law and order' rather than community policing involving Indigenous Communities; public drunkenness remains an offence in certain jurisdictions; and there still exist conditions that make it less likely that Aboriginal defendants will be granted bail and more likely they will be sentenced to prison.

The Royal Commission urged that prison be a measure of last resort. In recent years the 'law and order' policies of states/territory governments, including mandatory sentencing legislation in Western Australia and the Northern Territory, have seen a move in the opposite direction.

In NSW there are currently 1116 indigenous offenders in full time custody and it appears we may need to build or expand four (4) centres to cater for the increased demands.

Overall government commitments have had little or no effect on the total number of Indigenous people incarcerated and Aboriginal Deaths in Custody. Deaths in police custody have declined as has the number of Aboriginal people taken into police custody. But this is more than offset by an increase in the total number of Aboriginal prisoners and in the level of Aboriginal over representation in prison.

In July 1997 a Ministerial Summit on Aboriginal Deaths in Custody recommitted various government to efforts to reduce the over-representation of Indigenous Australians in prison. From my understanding the Northern Territory Government is yet to sign the Summit Agreement.
In general, the monitoring process for the implementation of the Royal Commission
Recommendations has been highly ineffective. They have no sanctions or consequences for
states and territories that have rejected or qualified their support for a Royal Commission
Recommendation. The effective implementation of the Recommendations relating to self-
determination and economic independence cannot be underestimated.

The Royal Commission emphasised the importance of applying the principle of self-
determination. “The thrust of this report is that the elimination of disadvantage requires an
end of domination and an empowerment of Aboriginal people that control of their lives, of
their communities must be returned to Aboriginal hands.”

Please Explain, A summary of ATSIC’s report to the United Nations Committee on the
Elimination of Racial Discrimination (CERD) February 1999

Mortality Report

In the early 1980’s I was working in the Aboriginal Health Unit of the NSW Department of
Health, when the report on the Mortality of Aboriginal Australian in Western NSW 1984-87
was undertaken.

From my understanding this was the first research that demonstrated that “Aboriginal
mortality is lower in communities where households are smaller and there is more
employment. The relationship between employment and low mortality is highly important; it
signals that an effective attack on Aboriginal mortality can be achieved through programs of
economic empowerment.” Pg iv

Remember this report was compiled in the mid to late 1980’s.

Towards Reconciliation

The Carr Government has created many opportunities for debate about reconciliation,
providing for greater understanding of the shared history of Aboriginal and non-Aboriginal
people. At the threshold of a new century and two years before we celebrate the centenary of
Australia’s Federation, Aboriginal and non-Aboriginal Australians have a great opportunity
to work in partnership to shape a just and harmonious future.

Our Record

The Premier of New South Wales, Bob Carr was the first Australian government leader to
respond to the Governor-General’s call for all Parliaments to reaffirm their commitment to
Reconciliation.

The Carr Government was first Australian government to offer a formal apology for the
separation of Aboriginal children from their families.

They established the first Cabinet Committee in Aboriginal Affairs, chaired by Andrew
Refshauge. The committee provides leadership and coordination on the Government’s
activities in Aboriginal Affairs. Membership consists of eight ministers who have social
justice responsibilities.
Our Plan

New South Wales will contribute to the preparation of Documents of Reconciliation by the Council for Aboriginal Reconciliation and participate in the May 2000 Reconciliation events to be held in Sydney.

We will continue to provide financial support to the New South Wales Reconciliation Committee chaired by Linda Burney, which provides leadership to 55 local Reconciliation Committees through the State.

We will support the New South Wales gathering “Talking Up Reconciliation”, providing opportunities for Aboriginal and non-Aboriginal people to advance reconciliation. The conference will be held in Wollongong in 1999.

A better justice system

The over-representation of Aboriginal people in the criminal justice system remains a great concern. The Carr Government has renewed its commitment to implementing the recommendations of the Royal Commission into Aboriginal Deaths in Custody. To reduce deaths in custody, the Government is implementing concrete plans to improve the criminal justice system and address the underlying causes of disadvantage. This includes thorough physical and mental health assessments, education and training programs for inmates, family and community support, alternatives to incarceration and crime prevention.

In partnership with Aboriginal people, we will continue to develop strategies that target offenders, the needs of victims and the community, and underlying issues such as employment, education, health, housing and access to services, many which are covered in this policy.

Our record

In recognition of the large number of Aboriginal people in custody, we developed a $3.8 million Indigenous Offenders Action Plan which commenced in 1996. The aims to reduce the incarceration rate of Aboriginal people by providing inmates with education, training health and life skills which will reduce the risk of re-offending.

Our plans

At present, Aboriginal people represent eighteen (18%) percent of the total prison population but only two percent of the State’s population. There is a need to limit Aboriginal people’s contact with the criminal justice system and develop a range of appropriate sentencing options. In partnership with the Aboriginal Justice Advisory Committee, we will develop options which, where appropriate, allow communities to develop sentencing programs with the support of the courts.

We will expand Post Release Programs across New South Wales to prevent ex-offenders from re-offending, particularly those rural and isolated areas.
An Elders Visitors Program has been established to provide support, assistance and role models to Aboriginal people in goals. By recognising the status and knowledge of Aboriginal elders, this program will focus on encouraging inmates to develop educational skills and receive vocational training. Elders will involve local communities in the support and rehabilitation of Aboriginal offenders.

Assistance will be provided to Link-Up Aboriginal Corporation to work with inmates and their families who are members of the Stolen Generation.

Many of these initiatives occur in Correctional Centres around the country. It is up to us to capitalise on the current consultations on the draft declaration and the strategies that underpin it to ensure the inclusion of programs that will reduce the number of Indigenous Australians coming into contact with the criminal justice system and develop programs that facilitate economic empowerment for those who do.

As we move towards the new millennium there is much background noise Olympics, the Centenary of Federation, the May 2000 Event, the Preamble to the Constitution and the Draft Declaration for Reconciliation to name a few of the items on the table. It is within this environment that we need to ensure that the documents underpinning the draft declaration address the issues that we face in our working lives each day. It is equally important in a Correctional Environment to focus on economic independence if we are to succeed in meeting the goals and aspirations of our communities. A working environment that nurtures mind, body and spirit can be developed in a correctional environment. Girrawaa has demonstrated this and given us a glimpse of what we can do.

References

Aboriginal and Torres Strait Islander Commission, 1999, Please Explain A summary of ATSIC's Report to the UN Committee on the Elimination of Racial Discrimination (CERD), Canberra.


NSW Department of Education and Training, 1997, Aboriginal Enterprise Development Officer (AEDO) Program

NSW Department of Corrective Services, 1999, Girrawaa Corrective Services Industry.


NSW TAFE/Department of Corrective Services, 1996, Strategic Plan for TAFE NSW Provision to Aboriginal Inmates
ABORIGINAL AND TORRES STRAIT ISLANDER
FAMILY SUPPORT PROGRAM
ELDERS VISITATION PROGRAM
SUPPORT WORKER SCHEME
MURRIE CHAPLAINCY
CULTURAL INTERESTS PROGRAM

Darcy Turgeon
Department of Corrective Services, QLD

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
The Family Support Program for Aboriginal and Torres Strait Islander Prisoners and Family Members

Background

The Family Support Program was introduced into Queensland correctional centres to alleviate the loss of family contact and kinship ties brought about by a period of incarceration. In some instances Aboriginal and Torres Strait Islander people are incarcerated in correctional facilities situated many hundreds of kilometres from their home communities.

The Department of Corrective Services (DCS) has aimed to assist inmates and family members maintain cultural links by facilitating visits by family members into Correctional Centres and assisting inmates to attend funerals of relatives on home communities. Cultural events, including NAIDOC week are also given special significance by correctional centre management. The week of celebrations includes, cultural entertainment, family days, inter­centre sporting events and the raising of the Aboriginal and Torres Strait Islander flags.

During the development of the Family Support program DCS undertook consultation with Aboriginal and Torres Strait Islander inmate and community groups. This included consideration of whether the Department should manage the program or the program could be managed by community groups who would be allocated funds to offer support to Murrie inmates and family members.

The outcome of the consultation was support for the Department of Corrective Services to develop and implement the Family Support Program for Aboriginal and Torres Strait Islander inmates and family members in the Queensland correctional system.

Early in 1994 the Family Support Program was written and a set of guidelines produced for the operation of the program in consultation with inmates, Aboriginal and Torres Strait Islander community groups and Correctional Centre management. The opportunity was provided for further comment on the draft document from stakeholders mentioned and where appropriate changes and alterations were included in the final document.

Implementation

On 1 July 1994 the Family Support Program for Aboriginal and Torres Strait Islander Inmates and Family Members became operational in all Queensland Correctional Centres. Centres with significant numbers of Aboriginal and Torres Strait Islander inmates were allocated funding to employ a Family Support Counsellor to manage the program as well as an allocation of funding to implement inmate and family initiatives for the twelve month period. Correctional Centres with small numbers of Aboriginal and Torres Strait Islander inmates were allocated funding to implement inmate and family initiatives. Due to the limited number of Aboriginal and Torres Strait Islander inmates, no allocation was made to employ additional staff in these centres.

Staffing

Full time Aboriginal and Torres Strait Islander Family Support Counsellors were employed at Lotus Glen, Townsville and Rockhampton Correctional Centres and shared positions at Wacol, Moreton, Sir David Longland and Brisbane Womens’ Correctional Centres.
The two private correctional facilities in Queensland, Arthur Gorrie and Borallon Correctional Centres were allocated a portion of the funding to employ a Family Support Counsellor plus a budget for inmate and family initiatives. Both these centres now contribute toward the salary costs to employ an Aboriginal and Torres Strait Islander Counsellor on a full time basis. This officer is obligated to Family Support duties for only the DCS funded portion of their time.

As the program entered the second year of operation funding for the Family Support Program became the responsibility of the DCS. The Offender Development Directorate continues to monitor expenditure through the involvement of the Senior Adviser, Aboriginal and Torres Strait Islander, Offender Development. Centres continue to receive a proportional allocation of funds for each financial year to facilitate:

1. Visits by family members, individual or group
2. Travel and escort costs to home communities to attend funerals
3. Family Days in Correctional Centres
4. NAIDOC Week Activities

**Review**

In the final quarter of 1995 centres were advised that a review of the program would be conducted in early 1996. The review considered the operation of the program in correctional centres from the point of commencement. A major part of the review was a focus on the allocation of time each officer in the Family Support Counsellor role, spent on the four initiatives of the program. The role of this position was re-examined to determine if adequate time was being spent with inmates on family matters and if inmates were being monitored on a regular basis in relation to ongoing family contact.

Two workshops were held for Aboriginal and Torres Strait Islander Counsellors and Counsellors - Family Support as part of the review process. The first Workshop was held in November 1994 and the second in February 1996. The review workshops have now become an annual event to ensure the Program is adaptable to change. Input from the annual workshops from staff working on a daily basis with inmates and families is used in this review process of the Program.

Implementation of the Family Support Program into the Correctional Centre environment has meant the DCS now gives recognition to the cultural differences between Aboriginal and Torres Strait Islander people and non-Aboriginal and Torres Strait Islander people in the following ways:

- The DCS acknowledges the significance of attendance of funerals by Murrie inmates who have specific kinship ties to the deceased;
- The DCS acknowledges the significance of NAIDOC week in the Aboriginal and Torres Strait Islander prison community and the community in general. Therefore family days are a specific part of the NAIDOC week celebrations;
- The DCS acknowledges the need to enlist the assistance of traditional Murrie Spiritual Healers in lieu of traditional non-Aboriginal and Torres Strait Islander medicine if the occasion is warranted. Traditional Spiritual Healers have attend to individual inmate’s needs in times of crisis.
While we have prisons we will experience deaths in custody, just as while we have commodores and falcons which will reach speeds of 200 kmp we will have deaths on the best roads possible to build. Every initiative to improve the lives of Murries in custody, every visit by a community based agency including Legal Services, Medical Centres, Link-up, Chaplains, Elders etc, every phone call to a relative, every family day, every NAIDOC week celebration and every funeral attendance is an “air bag” installed by the DCS to reduce the risk of self harm.

In 1995 a Murrie inmate was found deceased in his cell at Sir David Longland Correctional Centre about 1 p.m. in the afternoon. It was Family Day and in the gymnasium were about 100 Aboriginal and Torres Strait Islander inmates sharing a day with their families. It seems no matter how wide the net is spread to reduce the risk, some people will slip through.

The fact that there are over one thousand Aboriginal and Torres Strait islander men, women behind bars in Queensland is an indictment on the government of today in relation to the lack of provision of support and infrastructure for indigenous communities. The perception of prisons as hostile places is true and correct and yet hundreds of Murries live their daily lives in that environment, being told when to eat, when to move, when to do programs, when to go to the oval.

The Department of Corrective Services via the implementation of RCIADIC recommendations, and through such reports as the Kennedy Report in 1988, the PSMC Report in 1993, and the most recent Corrections in the Balance review in 1999 has endeavoured to introduce procedures and programs which will see a reduction in the numbers of people who lose their lives during a term of imprisonment, both indigenous and non-indigenous.

By employing our own people in the system, presently in excess of 85 permanent officers, or 4% of total staffing, the Department has tried to lessen the extent of hostility felt by people in custody, particularly those experiencing their first time in prison. Those staff members, counsellors, Chaplains, Elders and community representatives who come into DCS prisons, will never be congratulated for the numbers of Murries that were supported, counselled, brothered, sistered, educated, culturally enriched, spiritually enlightened, medically maintained etc.

The Department of Corrective Services acknowledges the debt to those people who have helped to ensure that many indigenous prisoners had second thoughts about hurting themselves because of the good work done by indigenous and non indigenous staff and community people committed to eliminating the risk of self harm in custody.

There was one death through self-harm by an Aboriginal prisoner in Queensland correctional centres in 1997 and one in 1998 from an indigenous prison population of in excess of one thousand Murrie prisoners.

There have not been a death in custody through self-harm by a Murrie prisoner in Queensland to date in 1999.
ABORIGINAL AND TORRES STRAIT ISLANDER
COMMUNITY PLACEMENT CENTRES

Darcy Turgeon
Department of Corrective Services, Qld

Paper presented at the Best Practice Interventions in Corrections
for Indigenous People Conference
convened by the Australian Institute of Criminology
in conjunction with Department for Correctional Services SA
and held in Adelaide, 13-15 October 1999
There is a deal of background associated with the development of Aboriginal and Torres Strait Islander diversion from secure custody facilities currently operated under contract or directly by the Department of Corrective Services in Queensland.

The over-representation of indigenous people in the criminal justice system in the late 1980's in Queensland received attention for the first time in what is known as the Kennedy Review into corrections in Queensland 1998. Jim Kennedy a prominent Brisbane business man wrote the report and stated categorically that something must be done to address the problem of so many Aboriginal people in prison. At that time the indigenous prison population would have been approximately 300 of a prison population of approximately 1200. This report also recommended the creation of a Commission to manage corrections in Queensland, therefore the Queensland Corrective Services Commission came into being and remained as a Commission with a Board of Directors until 1999 when it reverted back to a government department now known as the Department of Corrective Services.

Kennedy stated categorically that an indigenous officer should be recruited as an Adviser in Central Office to at least have Aboriginal and Torres Strait Islander issues begin to have some relevance in the overall policy/decision making process. After all indigenous people were 25% of the Commission’s core business.

The other significant recommendation from Kennedy was that the Commission must implement strategies to reduce the numbers of Murries in secure custody. The how to do was the idea of the then Director-General of the Commission, Keith Hamburger who came up with the idea of what became known as Outstations which could be established close to remote Aboriginal communities where Murrie prisoners could be released into open facilities which were quite unique as community based options.

There has been for some years in Queensland a move by community Murries to establish alcohol and drug free Outstations away from remote communities, in many instances on traditional land, therefore a recommendation of the Corrections in the Balance Review into corrections in Queensland in 1999 stated the name should be changed to Community Placement or Community Corrections Centre to distinguish the correctional facilities from the Outstation movement.

The Department of Corrective Services currently manages under contract four Community Placement Centres formerly referred to as Outstations in the north of the state as diversion from secure custody options for Aboriginal and Torres Strait Islander prisoners predominantly from the Lotus Glen and Townsville Correctional Centres. These Community Placement Centre are:

**The Wathaniin Community Placement Centre**
- Location: 40 kilometres outside Aurukun on the western side of Cape York
- Prisoner capacity: 12
- Annual DCS funding allocation: $220,000-00
- Commenced operation: 1991

Travel to Wathaniin is from Cairns to Aurukun. There are regular flights from Cairns. Dependant on the aircraft this trip can take up to two hours. From Aurukun a light plane is necessary for the return trip to Wathaniin Community Corrections Centre. This aircraft is stationed at Aurukun and travel is arranged through the Council if necessary. The trip to Wathaniin takes approximately 15 minutes.
**Baa's Yard Community Placement Centre**

- **Location**: 35 kilometres outside Pormpuraaw on the western side of Cape York
- **Prisoner capacity**: 20
- **Annual DCS**: $285,000-00
- **Commenced operation**: 1993

Travel to Baa's Yard is from Cairns to Pormpuraaw. There are regular flights from Cairns. Dependant on the type of aircraft, this trip can take up to two hours. From Pormpuraaw it is approximately one hour via four wheel drive vehicle to Baa’s Yard Community Corrections Centre. This vehicle is usually supplied by the Pormpuraaw Community Council.

**KASH Community Corrections Centre**

- **Location**: 11 kilometres outside Mount Isa in central North Queensland
- **Prisoner capacity**: 12
- **Annual DCS funding allocation**: $190,000-00
- **Commenced operation**: June 1997

Travel to KASH is from Brisbane to Mount Isa. From Mount Isa it takes approximately 20 minutes to drive to the KASH facility.

**Kitchener Bligh Community Corrections Centre**

- **Location**: Palm Island situated approximately 70 kilometres off the coast from Townsville
- **Prisoner capacity**: 12
- **Annual DCS funding allocation**: $244,000-00
- **Commenced operation**: May 1997

To travel to Kitchener Bligh Community Corrections Centre, initial travel is from Townsville to Palm Island. This trip by air takes 20 minutes. The Community Corrections Centre is located on the island. Palm Island Council or Community Corrections Palm Island usually provide transport from the airstrip and return.

**Details/Issues**

There are two major issues which have impacted on the success of these facilities. The first of these issues is the contractual arrangements to find an indigenous organisation to manage the facility under contractual agreement with the Department of Corrective Services. The Aboriginal Councils at Pormpuraaw and Aurukun took on the challenge in the 1990's when they were trying to deal with so many other issues relating to community management, including health, housing, employment, and social problems.

These facilities still remain today. It is a sad fact that on some of the remote Aboriginal communities in the Cape York region of Queensland the one industry which has stayed for the longest is the industry of corrections. As you travel around some of the remote communities in the north of Queensland you soon begin to realise they are graveyards of good intention. You will hear people say, the market garden used to be over there or the block making business used to be over there.
Because so many Aboriginal and Torres Strait Islander people from these communities are in custody, the community people have almost developed some form of daily association and familiarity with the prison system and many community people know the Murrie counsellors and staff who work in Queensland's two northern correctional centres and community corrections.

The second major issues impacting on the success of the Community Placement Program is the unwillingness of Murrie prisoners to move from the relative comfort of the Farms at Lotus Glen and Townsville Correctional Centres which are by prison standards, probably two of the most hospitable open custody facilities in the country.

The reluctance to move to the CP Centres can be put down to the fact that these facilities were due to the extreme isolation, very basic as far as comforts go. However although basic when compared to the farms at Lotus Glen or Townsville, the facilities were designed to provide equivalent standard of accommodation which was available in neighbouring communities.

There have been very recent steps made to have these facilities operating at top occupancy rates:

These include:

- Recommendation 44 from the 1999 Corrections in the Balance Review into Corrections in Queensland which states that “outstations” be renamed “community corrections centres;

- Recommendation 45 of the Corrections in the Balance which states that the concept of “outstations” be retained and they be resourced so that the standard of facility, range of accountability process applied to them, and support for their management are equitable in relation to other corrections facilities across Queensland;

- Recommendation 46 from the Corrections in the Balance review which states that the establishment of additional “outstations” be considered - where supported by local Aboriginal communities and Torres Strait Islander communities - if they can be used effectively as a front-end sentencing option;

- Legislation Review currently being conducted in Queensland which will enable the judiciary to sentence Murries to the CP Centres as front-end options instead of secure custody;

- The positioning of two senior indigenous positions based at the Townsville and Lotus Glen Correctional Centres, but as part of the Aboriginal and Torres Strait Islander Policy Unit in Central Office. These officers work with centre Sentence Management on intervention sentence strategies to encourage Murries to finish their sentences at the CPC's close to their home communities;

- The department operates a Central Office, Office of Sentence (OSM) Management which advises the SM units in all centres. In recognition that the CPC's were underutilised as well as the mainstream Community Corrections Centres, the department has recently established a dedicated position within the OSM to work with custodial centre managers in identifying prisoners suitable for transfer to Community Placement Centres. The need for this position was identified in a review of occupancy rates in centres in 1998. The review identified a number of factors which contributed to delays in prisoners transferring to Community Placement Centres.
The appointment of this specialist officer in OSM relates to a recent review of the occupancy rates through a three month placement of a project officer. It was of interest that during the three month trial appointment of the project officer, rates in all centres increased but decreased after the review was concluded. During the conduct of the review, custodial centre managers were requested to explain why suitable prisoners had not been identified for transfer to a Community Placement Centre. The review also recognised the need for sentence management and custodial centre managers to work closely with representatives of the Aboriginal Communities to identify those prisoners suitable for transfer to centres.

The appointment of a dedicated sentence management officer to monitor occupancy rates in Community Placement Centres and to instigate appropriate follow up action will assist to ensure that centres operate at full capacity. The appointment of the senior indigenous adviser position at both Lotus Glen and Townsville Correctional Centres should go some of the way in resolving potential disputes between the SM officer and managers of custodial centres in identifying and transferring eligible prisoners.

Management Arrangements in 1999

- Service Agreements are in place between the Department of Corrective Services and respective organisations or community councils for the management of the KASH, Baa's Yard and Wathaniin facilities. At the current time DCS manages the Kitchener Bligh CPS through the DCS Community Corrections office on Palm Island.
- Baa's Yard and Wathaniin are managed by non-indigenous husband and wife teams. There is no significant employment program in place to employ and train Aboriginal people to manage or assist in the management of these facilities.
- KASH is managed by an Aboriginal community based organisation which employs Aboriginal and Torres Strait Islander staff.

The Department of Corrective Services in Queensland has recently made a significant move away from the corporatised, service purchaser, service provider model relating to the contractual arrangements for correctional facilities. The Corrections in the Balance review into corrections in Queensland recommended that the purchaser provider model be retained for the management of these facilities to ensure Aboriginal Councils and community based organisations are provided with an opportunity for maximum community involvement.

While the need to adopt a commercial approach in dealing with private providers is appropriate, this approach has not assisted the Community Placement Centres. Indeed this approach fails to recognise the need to support the Aboriginal Councils and Communities in meeting their obligations under the agreement. The critical issue is to assist the Aboriginal Councils and Corporations meet their obligations under agreement rather than focus on developing a relationship basis on strict application of the purchaser provider model. This approach makes no allowance for the need to support the Aboriginal Communities based on difficulties experienced by these Communities in managing and operating other ventures in the past.

There is a need to work towards achieving a pure purchaser provider model whereby the service provider operates completely independently of the service purchaser. In terms of Community Placement Centres this should be seen as a position which the department and service provider can work towards.
DEPARTMENTAL STAKEHOLDERS

Community Corrections Directorate

Community Placement Centres form part of the Community Corrections Directorate under the new organisation structure. The new role for the Aboriginal and Torres Strait Islander Unit is advise and assist Community Corrections Directorate on issues concerning indigenous prisoners as they relate to Community Placement Centres.

Community corrections regions and area offices readily accept the need to support the Aboriginal Councils in the management and operation of Community Placement Centres. The type of support provided includes regular visits to the centre, regular meetings with members of the Aboriginal Community, Elders and local Justice Groups and contact with community development officers. In addition, area offices are currently performing some of the processing requirements as outlined on the operational specifications rather than the centre performing these tasks.

This level of support demonstrates that the department is interested and more importantly is committed to assisting the service provider achieve the best possible outcomes for the department, the Aboriginal Community and to provide diversion from secure custody options for indigenous prisoners.

There is a need for the department through its community corrections network to provide training for centre staff in the reception and discharge and the granting of leave to prisoners. In some cases, community corrections area staff currently perform these duties on behalf of the centre. The clear intention of the revised operational specifications, which form part of the current agreement, is for the department to continue to provide this support and to train and skill centre staff in the conduct of these tasks. The need to provide training also extends to relief staff to enable the centre to cover staff absences and to provide a ready pool of staff to replace those on leave.

Contracts Management Unit

This unit is primarily responsible for the management of the department’s contracts and agreements with the public and private providers of custodial and community correctional centres. The unit has also assumed responsibility for the management of the agreements with Aboriginal Councils for the operation of Community Placement Centres. The role of the Aboriginal and Torres Strait Islander Policy Unit is to work closely with the Contract Management Unit in addressing problems or concerns raised by the service provider.

Overall Departmental Management Responsibility

In addition to CMU, there are other units, which contribute to the successful operation of outstations. The role of these units is to support community corrections in working closely with the service provider to ensure that valued outcomes for the department are achieved.

The role and responsibilities of each unit are outlined in the table below. The responsibilities listed are additional to those responsibilities currently performed by the particular unit. For example:
<table>
<thead>
<tr>
<th>Unit</th>
<th>Role</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Corrections Regional and Area</td>
<td>Provide assistance and support to centres and support to the CMU.</td>
<td>Undertake regular visits to centres and discuss issues with the Council/Elders and local Aboriginal Community.</td>
</tr>
<tr>
<td>Offices</td>
<td></td>
<td>Provide training and support to centres based on areas of need as identified by the centre.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Responsible for all aspects of the case management of prisoners.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Work with other agencies in securing funding and support for the appointment of community development officers in regions without centres.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Develop the skills of centre staff to assume responsibility for all aspects of the operational specifications attached to the agreement.</td>
</tr>
<tr>
<td>Contract Management Unit</td>
<td>Co-ordinate the support from other units and maintain a close working relationship with the service provider.</td>
<td>Act as the central point of contact for service providers.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maintain weekly contact with service providers.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Co-ordinate support services provided by other units.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Assess need for visitations to resolve major issues or concerns.</td>
</tr>
<tr>
<td>New dedicated position in the Office of</td>
<td>Provide support to Community Corrections and maintain occupancy rates in centres.</td>
<td>Negotiate with General Managers on the identification of prisoners eligible for transfer to centres.</td>
</tr>
<tr>
<td>Sentence Management</td>
<td></td>
<td>Establish and maintain a waiting list of prisoners eligible for transfer to centres.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Negotiate with the Aboriginal Community and Elders and community placement officers on the transfer of eligible prisoners to centres.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Provide regular reports to the Executive Director, Operational Support Services.</td>
</tr>
<tr>
<td>Aboriginal and Torres Strait Islander Unit including out posted officers</td>
<td>Facilities Services Branch</td>
<td>Legal Services Unit</td>
</tr>
<tr>
<td>-------------------------------------------------</td>
<td>---------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>Provide support to Community Corrections and the Contract Management Unit to address issues identified.</td>
<td>Work closely with Community Corrections and provide assistance and support to centres.</td>
<td>Work with centres and the local Aboriginal Community in establishing culturally appropriate programs and the identification of work opportunities for prisoners.</td>
</tr>
<tr>
<td>Provide advice on the drafting of variations to agreements as a result of the department actively managing its agreements and contracts.</td>
<td>Improve the standard of centres and to a standard comparable with community corrections centres.</td>
<td>Undertake programmed visits to all centres.</td>
</tr>
<tr>
<td>Develop a capital works program and determine priorities.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The department is committed to maintaining the interest and involvement of the Aboriginal Councils in the management and operation of Community Placement Centres. However, this does not necessarily mean that the Aboriginal Councils should assume total responsibility for the management and operation the centres.

There may be situations where the Aboriginal Council is best placed to perform a support role rather than perform the role of service provider. It is understood that two Aboriginal Councils have indicated that they do not wish to be directly involved with the operations of the centre. However, the department has an obligation to first address the concerns raised by the Councils and to resolve these concerns. This has been the case in relation to the Community Placement Centre on Palm Island where current negotiations have continued for several months with the support of the Legal Unit and the Aboriginal and Torres Strait Islander Policy Unit. However, the situation with Palm Island Council is a temporary arrangement and is not an alternative to the established arrangement with other Councils.

The challenge for the department is to encourage other suitable organisations or individuals to nominate to perform the role of service provider. In such cases it would be imperative that the entity would be the support of the Aboriginal Community to perform the role. The department will need to develop clear guidelines on who would be eligible to register as a service provider and whether there is a need to place any restrictions on the types of entities which the department will contract with for the delivery of this service.

The department will also need to review its current method of allocating funds to operate each centre. In general, the department allocates $240,000 to cover the operational costs of a centre. This method of allocation would need to reflect the additional costs associated with attracting new providers to provide the same service currently provided by local Aboriginal Councils.
Due to the fact that the *Corrections in the Balance Review* into corrections in Queensland included several recommendations relating to the operation of the CPC's. A recent departmental paper developed in response to the Review has made the following recommendations to clarify the role and responsibilities of units within the department that will contribute to improved service and support to Community Placement Centres.

1. That Community Corrections Directorate assume responsibility for the coordination and delivery of training and support to Community Placement Centres;

2. That the Contract Management Unit assess the need to identify other providers to perform the role of service provider and call public tenders;

3. That the Contract Management Unit co-ordinate the support of other units to address problems identified by the unit as part of contract management process;

4. That the new created position in OSM provides regular reports to the Contracts Management Unit in the Operational Support Directorate, on issues relating to difficulties experienced by OSM in identifying eligible prisoners for transfer to Community Placement Centres;

**Future Plans for Community Placement Centres**

The Department is currently negotiating with three Native Title Claimant groups as well as the Woorabinda Aboriginal Council to establish a 12 bed facility at the *Five Mile* property about 11 kilometres from the Woorabinda community which is approximately 170 kilometres inland from Rockhampton. There are currently approximately 100 indigenous prisoners incarcerated at the Rockhampton Correctional Centre which is 30% of the prison population in Central Queensland.

The department is determined to involve the community in the establishment of this facility and has awarded a contract to QBUILD, a government enclave to build the facility ensuring the Aboriginal residents at Woorabinda are provided with the jobs on the project.

**Summary**

The *Corrections in the Balance Review* team which included the current Director-General Mr Frank Peach visited two of the Community Placement Centres in north Queensland as part of the review into Corrections in Queensland. The review team also visited Aboriginal and Torres Strait Islander community based organisations in Brisbane, Rockhampton and Cairns to discuss the over-representation of Aboriginal and Torres Strait Islander people in custody.

Chapter Five of the *Corrections in the Balance Review* is dedicated to Aboriginal and Torres Strait Islander issues. There is little doubt since the review team visited the CP Centres and began implementing the recommendations in May 1999 through the creation of the Department of Corrective Services, that much progress has been made relating to Community Placement Centres and Aboriginal and Torres Strait Islander issues in general.

In respect to CPS the review ensures the achievements made up to the time of the review are maintained and built upon. Recommendations from the Review when fully implemented will ensure Community Placement Centres for Aboriginal and Torres Strait Islander prisoners operate at their maximum capacity and appropriate support is provided to Murrie Councils, community agencies and the community in general in partnership with the Department of Corrective Services.
ABORIGINAL FAMILY SUPERVISION PROGRAM

Susan Senior
Ministry of Justice, WA

Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999
Abstract

This workshop will examine the antecedents leading to the establishment of the Aboriginal Family Supervision Program (AFSP) in July 1996. These antecedents include recommendations arising from the Royal Commission into Aboriginal Deaths in Custody 1991 and a survey of Aboriginal families in the northern suburbs of the Perth metropolitan area in 1995.

The over representation of Aboriginal people within the criminal justice system as a major concern for program and policy development will be discussed.

The target group for this program is Aboriginal young offenders, 16 to 21 years of age, who are provided with a mentor acceptable to both them and their family in consultation with their responsible case officer and Program Co-ordinator.

This program is a recent initiative. This workshop will allow for participation with a view to both sharing the outcomes and providing a useful dialogue that will help the presenters in modifications to the program. This is an opportunity for an international and national audience to critique and offer suggestions for its continued development.

The program was reviewed after its first year of operation and was evaluated in late 1998. The outcome of this evaluation will be shared with the participants along with more recent developments.

It is anticipated that the workshop will offer an opportunity for participants to examine the theoretical, political and professional content of the program through an examination of its historical development, its objectives and its outcomes.
Brief History of Aboriginal Family Supervision Program

The Aboriginal Family Supervision Program (AFSP) had its beginnings in early 1996 due to several issues concerning Aboriginal young offenders:

- A concern about the over representation of indigenous people, particularly young people in the Australian criminal justice system. In the 1996 Crime and Justice Statistics for Western Australia, Ferrante, Loh and Maller (1998:40) state:

   “In 1996, the annual arrest rate for non-Aborigines was 1.7% and 15.2% for Aborigines. Thus, based on 1996 figures, Aborigines were over-represented in police arrest statistics by a factor of 9.1. In other words, Aborigines were about nine times more likely to be arrested by the police than non-Aborigines.”

Further, in these statistics, Ferrante et al (1998:70) assert that “Aborigines account for about one in four charges....”

- The apparent fast tracking of Aboriginal people with community-based orders and custodial sentences rather than managing them through diversion. Blagg (1997:493) made comment that Aboriginal young offenders are less likely to be cautioned by the Police than non-Aboriginal young offenders. Additionally, he states:

   “Once they are in the system, furthermore, they easily become enmeshed. Aboriginal youths in Australia are 18.6 times more likely to be imprisoned than non-Aboriginal youths. In Western Australia this difference is even more greater and Aboriginal youth are 32.4 times more likely to be imprisoned (the over-representation at the custody level neatly matching their over-representation at the arrest stage).”

- Concerns and recommendations from the Royal Commission into Aboriginal Deaths in Custody (1991) The relevant recommendations (235 & 237) are as follows:

   “That policies of Government and the practices of agencies which have involvement with Aboriginal juveniles in the welfare and criminal justice systems should recognise and be committed to ensuring, through legislative enactment, that the primary sources of advice about the interests and welfare of Aboriginal juveniles should be the families and community groups of the juveniles and specialist Aboriginal organisations, including Aboriginal Child Care Agencies.”

   “That at all levels of the juvenile welfare and justice systems there is a need for the employment and training of Aboriginal people as youth workers in roles such as recreation officers, welfare officers, counsellors, probation and parole officers, and street workers in both Government and community organisations. Governments after consultation with appropriate Aboriginal organisations, should increase funding in this area and pursue a more vigorous recruitment and training strategy.”

All the Australian States have supported both these recommendations.
The concept for the program has moved on to ensure that the Aboriginal mentor must be acceptable to the family, the Ministry of Justice, the young offender and the relevant case officer. The mentor is paid an hourly rate up to a maximum of 10 hours per week with no more than two young offenders at a time. An allowance for travel is also paid to the mentor.

Mentors act as paid role models and befriendingers. They are expected to make up the deficit within the young offender’s family and networks. Some of the roles mentors have taken have been giving practical assistance for applying for Unemployment Benefits and Youth Allowance; seeking legitimate recreational pursuits (eg: playing in Aboriginal basketball teams); offering counsel, support and encouragement and helping with problem solving to deal with their life issues. Of particular note, mentors have visited young offenders serving either a period of Detention or a term of imprisonment, who have been referred to the program, in order to prepare them for release into the community. Mentors have also received specific training in the areas of substance abuse and anger management.

Program Co-ordinators were appointed in June 1996 and a special meeting was convened in the same month between senior management of the Ministry of Justice, Aboriginal Affairs Department and the metropolitan-based Council of Noongar Elders to explain the Program. The Council endorsed the concept of the AFSP and it is proposed that another meeting be convened to provide feedback to the Council as to the Program’s progress.

The program commenced on 1 July 1996 as a joint venture between the Aboriginal Affairs Department and the Ministry of Justice with the agreement of the Council of Noongar Elders. Management of the program has been devolved to the Managers of the Community Based Services Centres, where the program is based. These Managers along with the Coordinators and senior managers from the Community Based Services Directorate meet regularly to continually review the progress of the program. Various members of the Council of Noongar Elders have been invited to these meetings; however, they have very rarely attended.

**Data and Data Analysis**

The program was reviewed internally in July/August 1997 following its first year of operation by Wooller (1997) and was evaluated externally by Social Systems Evaluation in September 1998. The data presented in this paper represents the first two years of full operation of the program. In 1998 the program at Geraldton was terminated and reestablished in the southeastern suburbs of the Perth metropolitan area. This allowed for coverage of the Bentley and Maddington Branches by one Coordinator. As previously mentioned the Balcatta branch closed in June 1997 and reestablished as Joondalup and Mirrabooka Branches. These northern Perth suburbs are a part of a rapidly expanding coastal corridor. These two branches also receive coverage from a shared Coordinator. The third Coordinator is based at Midland branch.
Table 1:
Number of Referrals Between 1 July 1996 and 30 June 1998

<table>
<thead>
<tr>
<th></th>
<th>JUVENILES</th>
<th>ADULTS</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>MIDLAND</td>
<td>37</td>
<td>42</td>
<td>79</td>
</tr>
<tr>
<td>MIRRABOOKA/JOONDALUP</td>
<td>49</td>
<td>44</td>
<td>93</td>
</tr>
<tr>
<td>TOTAL</td>
<td>86</td>
<td>86</td>
<td>172</td>
</tr>
</tbody>
</table>

Very few referrals were not accepted. Those who were not accepted were as a result of unsuitability as determined by the Coordinator. In all cases this was due to anger and extremely negative views about the victim as expressed by the young offender. The acceptance rate for juveniles was marginally higher than for adults.

In the first year of operation there were 10 referrals in Geraldton, 3 juveniles and 7 adults. These figures were not included in this analysis.

"Referrals to Midland nearly doubled in 1997/98 compared with 1996/97 but there was an apparent 21% fall in referrals to Mirrabooka / Joondalup for the corresponding period. Overall there was a modest 9% increase in referrals in 1997/98." Social Systems Evaluation (1998:9)

This decrease in the Mirrabooka/Joondalup numbers is partly attributable to referral patterns from Mirrabooka case officers and partly to the fact that the target population at Joondalup is particularly small. The majority of referrals (over 80%) were males. This is clearly a reflection of the offender population.

Table 2:
Numbers Receiving Mentors Between 1 July 1996 and 30 June 1998

<table>
<thead>
<tr>
<th></th>
<th>JUVENILES</th>
<th>ADULTS</th>
<th>TOTAL</th>
<th>ALLOCATION RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>MIDLAND</td>
<td>21</td>
<td>23</td>
<td>44</td>
<td>56%</td>
</tr>
<tr>
<td>MIRRABOOKA/JOONDALUP</td>
<td>42</td>
<td>34</td>
<td>76</td>
<td>82%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>63</td>
<td>57</td>
<td>120</td>
<td>70%</td>
</tr>
<tr>
<td>ALLOCATION RATE</td>
<td>73%</td>
<td>66%</td>
<td>70%</td>
<td></td>
</tr>
</tbody>
</table>

The allocation rate is simply the percentage of referral acceptances allocated a mentor as at 30 June 1998.

The overall allocation rate of 70% needs to be seen in the context of the lower acceptance rate for Midland (56%) and the fact that with relatively high numbers of referrals the time lag for allocation due to the availability or otherwise of mentors was higher. It also needs to be remembered that allocation continued beyond the cut off date of 30 June 1998. These figures reflect the situation of total numbers; the 30% unallocated contain a percentage still in the pipeline.
The allocation rate for juveniles was marginally higher, 73% compared to adults 66%. This is an expected result as it is:

- Easier to find mentors for juveniles. A mentor program has existed in the juvenile justice area for some considerable time and been an important adjunct to case management.

- The role of mentors for adults is different and requires a range of skills greater than that needed for juveniles. Treading the path of mentor with an adult needs greater acceptance from the offender because of the relative parity between the mentor and the offender vis-à-vis rights and responsibilities.

- Some adults (6) were in prison although they had been accepted into the program.

Of greater significance was this result compared to the previous year. In the year ending June 30 1997 (the first year of operation) the allocation rate for juveniles was 88.6%. This is a clear indication of the increasing difficulties in mentor recruitment.

Completion of Orders

The overall order completion rate at the end of June 1998 was 69.4% for those on juvenile orders and 57.8% for those on adult orders. This figure only includes those allocated a mentor and were being supervised in the community. Seven of those referred and granted a mentor were in custody. At the time of the compilation of this data 83 cases had been finalised with a further 30 remaining open.

Table 3:

Completed Orders to End of 1998*

<table>
<thead>
<tr>
<th></th>
<th>JUVENILE</th>
<th>ADULT</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>MIDLAND</td>
<td>11</td>
<td>9</td>
<td>20</td>
</tr>
<tr>
<td>Balcatta</td>
<td>5</td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>Mirrabooka/Joondalup</td>
<td>9</td>
<td>16</td>
<td>25</td>
</tr>
<tr>
<td>TOTAL</td>
<td>25</td>
<td>26</td>
<td>51</td>
</tr>
</tbody>
</table>

* The cut off date for Midland was September and for Mirrabooka/Joondalup was late November 1998.

Breaches

At the time of the 12 month review the overall number breached was 10, six from Balcatta, 3 from Midland and 1 from Geraldton. By the end of 1998 this had risen to 32. This comprised 11 juveniles and 19 adults. Table 4 outlines the comparative breach rates for Mirrabooka/Joondalup and Midland. Geraldton was excluded, as the program ceased in Geraldton prior to the completion of this analysis and the overall numbers were very small. Mirrabooka/Joondalup includes the Balcatta figures of the previous year.
Table 4:
Comparative Breach Rates as of 30 June 1998

<table>
<thead>
<tr>
<th></th>
<th>As a % of Referrals</th>
<th>As a % of Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>MIRRABOOKA/JOONDALUP</td>
<td>18.3</td>
<td>22.4</td>
</tr>
<tr>
<td>MIDLAND</td>
<td>19.0</td>
<td>34.0</td>
</tr>
</tbody>
</table>

Table 5 gives a comparative breach rate between the three pilot sites as a percentage of referrals, acceptance and allocation of mentors. This is at this stage the only available measure of program outcomes. Until orders are completed (and this would be a better program outcome) a more accurate measure of “success” cannot be made. This of necessity would be retrospective and be a measure of completion of order that would make for some direct comparison.

The numbers in Geraldton, particularly of those allocated a mentor are so small as to provide a statistical bias to this population of offenders.

Using the breach rate of Table 5 and comparing it to order completion rates between 1 July 1998 and 30 June 1996 gives a comparative success rate as shown in Table 6.

Table 5:
Comparison Between “Success “Rate and Breach Rate AFSP

<table>
<thead>
<tr>
<th></th>
<th>MIDLAND</th>
<th>MIRRABOOKA/JOONDALUP</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Success Rate *</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aboriginal</td>
<td>47.9</td>
<td>65.3</td>
<td>57.8</td>
</tr>
<tr>
<td>Success Rate*</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-Aboriginal</td>
<td>70.3</td>
<td>74.6</td>
<td>70.8</td>
</tr>
<tr>
<td>Success Rate **</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>AFSP</td>
<td>57.1</td>
<td>64.6</td>
<td>61.5</td>
</tr>
</tbody>
</table>

* Success rate as prepared by Policy, Programs and Projects Directorate for the year 1996/97


The comparisons in the above table (Table 5) need to be examined in light of the following. First the numbers are small, they are based on the successful completion of 83 finalised referrals to the program. Secondly the comparison years differ, in that the numbers for the Aboriginal Family Supervision Program are from 1996 to 1998. At the time of the report 30% of the Mirrabooka cases were still in progress. Thirdly the published success rates are for all orders. To compare those on the program order by order would have reduced the numbers to a meaningless absurdity. The fifth point is that juvenile rate are extremely volatile and in Western Australia at the moment reflect changes to the legislation and sentencing patterns.
The "three strikes legislation" and the increase in length of sentences have reduced the successful completion rate of Supervised Release Orders with a consequent improvement across the other community-based orders. Finally the fluctuation in adult orders is small. In 1995/96 it was reported as 67.11%, in 1996/97 as 68.83% and 1997/98 as 66.83%. (Ministry of Justice Annual Report 1997/98)

For Aboriginal offenders there has been an improvement of 3.7%. On this comparison 0.7% at Mirrabooka/Joondalup and 9.2% at Midland shows an overall improvement. The indications are of a qualified statistical success at this stage. Unfortunately it is impossible to make any retrospective analysis of any validity, as it is impossible to control for all the variables and the smallness of numbers for any in depth analysis. It can be said that the program has done no measurable quantitative harm.

It is impossible to undertake a definitive empirical analysis that can answer such questions as "does the program make a difference to recidivism"? The rapidity of change to sentencing patterns, program imperatives and legislation as well as the selective reporting via the electronic and print media of matters all add to the broader picture of the socio/economic milieu and its impact of what we call criminal behaviour. It is often the more qualitative analysis that offers greater insights into what does and what does not work.

The external review (1998) used a mixed methodology of individual and group interviews, document review, file readings and surveys of young offenders, caregivers and relevant staff.

**Young Offenders Expectations**

The young offenders (20) who were interviewed overwhelmingly (100%) endorsed the program. The reality of the experience exceeded the expectation.

"Most young people did not appear to have particularly high expectations of their mentors, in fact 25% were not sure what to expect from having a mentor. Another 25% thought that the mentor was someone who was just there to watch over them and 30% thought that having a mentor was just someone to talk to."

Social Systems and Evaluation (1998)

"When asked how having a mentor differed from their expectations it appears from their responses that many young people got more from their mentor than they had expected."

Social Systems and Evaluation (1998)

"Young people were able to identify quite a number of things that they had done with their mentors. For example:

- 75% of respondents participated in sporting or leisure activities (ie. Football, basketball, golf, beach walking and movies)
- 55% of respondents visited the Department of Social Security (DSS) / Centrelink during their order
- 50% indicated that they have looked for employment through an employment service
• 25% of respondents indicated that the mentor provided transport to and from their community service assignment
• 20% said that they just talked with their mentor

Individuals said that their mentor took them to Court, to visit their case officer, to educational courses and helped with personal problems.

Overall it appears that young people underestimate what they can expect from their mentors. Any expectations they may have about what a mentor can offer are quite realistic. From their responses it appears that their expectations are met and probably exceeded.

The Review also pointed out that 60% of young offenders thought that having a mentor had some effect on their lives. 25% said having a mentor kept them out of trouble. 20% said they had stopped offending.

When asked about change to their offending 70% said they had stopped doing crime or had been keeping out of trouble.

Caregivers Perspective

Eight of the nine interviewed thought the program was “good”. Caregivers’ expectations tended to match the reality. All caregivers (9) saw some positive change in their offspring. Five saw some positive effects on the family. Four caregivers said the program had improved their influence over their children.

Aboriginal Elders

The evaluation pointed out the fact that the Elders had to been involved and recommended:

“It is recommended that the Steering Committee consult with the Metropolitan Commission of Elders and the Metropolitan Aboriginal Justice Council on how they wish to be involved in the management of the AFSP and Warminda and the most appropriate way of achieving this”. Social Systems Evaluation (1998)

Officers Perceptions

“Perceptions of how cases were dealt with”

<table>
<thead>
<tr>
<th>Consider that AFSP dealt adequately with referrals</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree/strongly agree</td>
<td>18</td>
<td>67%</td>
</tr>
<tr>
<td>Undecided</td>
<td>7</td>
<td>26%</td>
</tr>
<tr>
<td>Disagree/strongly disagree</td>
<td>2</td>
<td>7%</td>
</tr>
<tr>
<td>Total</td>
<td>27</td>
<td>100%</td>
</tr>
</tbody>
</table>

Social Systems Evaluation (1998)
Of the 29 officers who had referred cases 16 (55%) were satisfied with the feedback.

“Satisfaction with feedback”

<table>
<thead>
<tr>
<th>Satisfied with the amount of feedback</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree/strongly agree</td>
<td>16</td>
<td>55%</td>
</tr>
<tr>
<td>Undecided</td>
<td>5</td>
<td>17%</td>
</tr>
<tr>
<td>Disagree/strongly disagree</td>
<td>8</td>
<td>28%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>29</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

“Only a few officers made any written comment on feedback or case management but where they did the comment was somewhat critical.” Social Systems Evaluation (1998)

Impact on Officers Casework

“Officers were surveyed on the impact that the AFSP program had on their casework. For most the program made no difference. For 30% it is reasonable to assume that the impact was positive either because their casework became more effective or because the mentor reduced their casework. However, it is difficult to interpret whether increased casework was a positive or a negative. It may mean that problems, which might otherwise have been overlooked, were drawn to the officers’ attention.”

Social Systems Evaluation (1998)

Impact on casework

<table>
<thead>
<tr>
<th>Impact on casework</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increased casework</td>
<td>2</td>
<td>8%</td>
</tr>
<tr>
<td>Reduced casework</td>
<td>4</td>
<td>17%</td>
</tr>
<tr>
<td>Become more effective</td>
<td>3</td>
<td>13%</td>
</tr>
<tr>
<td>Made no difference</td>
<td>15</td>
<td>63%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>29</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

“Fifty percent of officers thought that for the young offender concerned the AFSP was beneficial. Other officers were undecided, thought the program made no difference or the offender did not complete enough of the program to judge”. Social Systems Evaluation (1998)

Impact on casework

<table>
<thead>
<tr>
<th>Impact on the offender</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beneficial/very beneficial</td>
<td>13</td>
<td>50%</td>
</tr>
<tr>
<td>Undecided/don’t know</td>
<td>5</td>
<td>19%</td>
</tr>
<tr>
<td>AFSP made no difference</td>
<td>4</td>
<td>15%</td>
</tr>
<tr>
<td>Offender did not complete program</td>
<td>4</td>
<td>15%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>26</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

While the case outcomes have been positive there are disquiets about process matters.
Program Issues

While every attempt has been made to ensure that this ethnic specific program avoids anti-discriminatory practice, its strengths in this regard have also been some of its weaknesses.

As mentioned, the AFSP was based on the results of a survey of Aboriginal people which clearly pointed to the importance of ensuring that it was family based and not targeted at a perceived homogeneous population of indigenous people. The process of consultation with the Aboriginal Council of Noongar Elders is predicated on a principle of indigenous people as having to some extent a common link, therefore implying some aspects of homogeneity. There has also been considerable difficulty in maintaining the involvement of both the Aboriginal Affairs Department (one of the joint initiators along with the Ministry of Justice) and members of the representative group of the Council of Noongar Elders. A sticking point early in the program was over payment of the Council members to attend the Steering Committee meetings. There have also been difficulties in accessing the Council of Noongar Elders to attend these meetings.

There has been a decision, however, to offer payment (Steering Committee Meeting in July 1998) in an attempt to encourage the presence of representatives of the Council at Committee meetings.

The recruitment of mentors within families has also proven difficult. There are a number of reasons for this. The most important and probably most hindering has been the bureaucracy's rigidity in demanding that mentors agree to a Criminal Record check. Again, early in the life of the program, at a meeting of the Coordinators during their training/induction period the issue of the negative nature of this requirement was raised. Senior Management refused to budge on the matter. It was not so much the concern of the Coordinator that a large number of suitable mentors would be found to have had a brush with the law, but that it was seen as an unnecessary and an overly bureaucratic interference. If the criteria of the mentor being acceptable to the Coordinator, the family and the young offender was in place that should have provided a sufficient safeguard against any harm to the young person. The lack of trust in that process in some ways could be perceived as a lack of trust in the parties to the process. The safeguard of a Criminal Record check was more to do with a bureaucratic safeguard than a ‘real’ safeguard.

In line with the original concept of the AFSP, mentors were drawn from within family systems. This has been increasingly difficult due to:

- The perception of the mentor being part of the Ministry and its function due to the fact that they are employed, report on the young offender and owe their primary responsibility to the Ministry and not the family, i.e. to some extent “who pays the piper calls the tune”.
- Requirements of the bureaucracy and its process of accountability, copious paperwork, report writing and case recording. This raises issues of exceptional Mentors who do not have basic literacy and numeracy skills not being able to fulfil this requirement or feeling inadequate through not being able to perform the basic tasks of form filling without assistance.
- Families not wanting family members to be involved in a process of checking and standing in judgement. The use of successful mentors external to the family has been a growing trend. It is at times difficult to maintain a focus on the tasks when there is family feuding and ongoing conflict.
- The perception that the family member, who has been employed as the mentor has ‘sold out’ to the system.
The issue of commitment of both the Aboriginal Affairs Department and the Council of Noongar Elders is also paralleled in the reluctance of families to either use or present family members as mentors. Importantly, however, there is acceptance amongst families of the mentor process.

The Issue of Referrals

There was during the second year of the program, difficulties with referrals. There was a degree of 'gate keeping', particularly by some Aboriginal Community Corrections Officers in some locations. There was also a difficulty with the problem of both offender and prison population mobility. The AFSP operates in quite specific localities and at times a young offender who may have benefited from the program happened to live in a locality which was not covered by the program.

When the program ran at Geraldton in the first year of its operation, prisoner transfers to Geraldton Regional Prison also posed a problem as suitable referrals from that Prison could not always be made because of the home address on release falling outside of the areas covered by the AFSP. Consequently, a number of young offenders who would have benefited from the program had to miss out from the support of a mentor.

The Issue of Cultural Imperialism

Whilst every attempt has been made to ensure the involvement of indigenous people in the development and management of the program and its delivery through the employment of Aboriginal Coordinators, it is a program that has had its genesis within what is essentially a Government bureaucracy. It is structured in fairly traditional ways with processes of accountability of a fairly standard; imperialist trend with regular Committee meetings, Managers, Coordinators, case officers and mentors. There are also standard requirements of all players with kilometrage claims, case notes, time sheets and meetings. While this is the case as well as a constant tension between the requirement of field staff (most of whom are university educated) with their concerns for case accountability and the more organic and flexible befriending of the mentor, outcomes in terms of success in order completion and re-establishment in the community of the young offenders has been outstanding. The balance is in maintaining the flexibility and openness of the helping process within the rigidity of the bureaucracy and its demands.

What Works - A Conclusion

What works is the combination of an Aboriginal Co-ordinator who can interpret the bureaucratic demands to the mentor and the young offender's family whilst ensuring that the demands do not overwhelm them. As well as this, the Co-ordinator takes care of the process of ensuring that the mentor is someone agreed upon by all parties.

The mentor is able to provide a successful role model as they are chosen because of their personal attributes and are quite often people looked up to by the young offender. It is important to ensure that they continue to be selected for their ability to work with the young person and their family and not only to meet the bureaucratic/organisational demands put on them by the requirements of the Ministry.
Mentors provide an intensive form of pro-social modelling to the young offenders and constantly reinforce the use of non-offending behaviour. In McGuire and Priestley's review of 'What Works' (1995:16), they state:

"Amongst the range of intervention methods included in the meta-analyses, those which emerge as offering the most promising outcomes are based on the 'cognitive-behavioural' approach."

One of the cognitive-behavioural methods is social skills training, which includes modelling and this method has been used successfully with young offenders.

The Program is now in its fourth year of operation and it has undergone some changes, which include:

- Changes of structure and alignment following the amalgamation of the Juvenile Justice and adult Community Corrections Directorates to create the Community Based Services Directorate in February 1997.
- The Geraldton program ceased to operate in early 1998 due to a lack of referrals and the resources have been relocated to the Maddington and Bentley Centres, which cover the southeastern corridor of the Perth metropolitan area.
- The use of non-family members as mentors rather than the original concept of family mentors only, due to both difficulty in recruiting and retaining them.
- Current proposal for the program to be expanded across the whole metropolitan area, which is an equity and access issue. If no new funding is granted, then the three Coordinators may have to take on extra areas to increase the coverage.

While the program has produced positive outcomes and results, there are difficulties relating to much of the process. Young offenders have benefited from the involvement of mentors; however, bureaucratic processes remain as a continuing irritation. The case officers are often irked by what appears to be noncompliance on the part of the mentors when they do not make case notes or when their journals, outlining hours worked and kilometres driven, are not as accurate as they would like.

The incompatibility of the predominant culture of the bureaucracy with the contemporary indigenous culture’s view of what is important creates a continuing tension. It is hoped that at the end of the day the focus on positive outcomes for the young offender prevails.
References

Beresford, Q. & Omaji, P. Rites of Passage: Aboriginal Youth, Crime and Justice. Fremantle Arts Centre Press, Western Australia. 1996.


INDIGENOUS COMMUNITY EXPECTATIONS OF BEST PRACTICE

Commissioner Colin Dillon
Aboriginal and Torres Strait Islander Commission, Qld

*Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference convened by the Australian Institute of Criminology in conjunction with Department for Correctional Services SA and held in Adelaide, 13-15 October 1999*
I wish to begin by acknowledging the Kaurna people as the traditional owners of this region.

The Royal Commission into Aboriginal Deaths in Custody remains the most comprehensive survey of Indigenous law and justice issues ever conducted.

It also provided the most exhaustive set of recommendations on the underlying causes that bring Indigenous people into excessive contact with the justice system.

Despite the Royal Commission’s 339 recommendations, Indigenous people are still 14 times more likely to be imprisoned than non-Indigenous Australians.

I’ll leave it to the Australian Institute of Criminology to provide the latest data on Indigenous rates of imprisonment across various jurisdictions.

But wherever you look — our people outnumber other sectors of the community in vastly disproportionate numbers.

The AIC will also have current information on the deaths in custody resulting from that presence.

The Royal Commission’s wide range of recommendations focussed on ways of diverting people from prison.

One of the most important principles espoused by the Royal Commission was that ‘custody should be the last resort’.

Today, we see endless examples where governments continue to actively disregard this all-important principle.

They hit the airwaves with promises of mandatory sentencing and talk of zero tolerance policing.

And these are the practices that fill prisons with our people.

Every honest appraisal of zero tolerance policing shows that it’s a policy that targets the lowest economic groups with deadly effect.

The experience in the United States proves that fact and also shows that no genuine benefit comes from implementing such policies.

I’m sure most of you would have seen the report prepared for ATSIC by the eminent criminologist Chris Cuneen that spells out the folly of ZTP.

If not, it’s readily available on the ATSIC Web site.

**Best practice**

In preparing for today, I had a quick look across the various claims of best practice that governments are making around the country.
I have to say that most of the effort seems to have gone into making changes in policing procedures.

And it would be churlish to deny that some good work is occurring at this level.

There are a range of community initiatives that see local Indigenous communities working with police, justice departments, local government bodies and health agencies to find creative and holistic ways of keeping Indigenous people out of prisons.

I’m not saying that this is happening consistently across every jurisdiction or everything is turning out just fine.

There is very clearly a lot more work needed to address racism which — sadly — is found within all policing jurisdictions across the nation.

Racism can only be tempered and effectively reduced by way of demonstrated and sound leadership from top to bottom in policing agencies.

Cultural awareness programs are an essential ongoing requirement among law enforcement officials.

There is a lot more work that needs to be done to improve the court systems and sentencing options.

I make this comment even after a very encouraging meeting I had this week with a number of judges of the Victorian Supreme Court and members of the local Koori community.

I came away from Victoria totally optimistic that this historic meeting will bring about a tide of positive change — change involving analysis of current sentencing practices that, in turn, will lead to an emphasis on alternative sentencing options to reduce the unacceptable rate of incarceration.

I feel very confident that this group of people — the community and the judges — will stand by their agreement on setting common goals that we hope will be conducive to diverting Indigenous people away from the criminal justice system.

This initiative makes for a sterling pilot program that — hopefully over time — will translate to other jurisdictions.

The justice system

Over and above all of that, there’s more work needed to raise the level of political intelligence that’s demonstrated whenever justice issues are debated in our parliaments.

Political campaigns on law and order excite tabloid media but continue to grind our people into the ground.

Meanwhile, the improvements that have occurred seem to spring from the ideas and initiatives of local individuals, who then gain official blessing for what they devise.
Many of the schemes I looked at suffer from inadequate resources and from slow official recognition of their value.

But my overall impression is that correctional facilities have got to do a lot of catching up with police and community initiatives.

Officials know that they need to build prisons and remand centres that reduce the scope for ‘death by misadventure’.

But the prevailing attitude still seems to be that once a person is placed in an appropriately designed cell, all responsibility then ceases.

That person is no longer a human being with all the needs that exist in the outside world.

And it seems to me that minimal — if any — effort goes into providing the educative and cultural support that will release offenders from the circumstances they face while behind bars.

This attitude might be understandable if every Indigenous prisoner was guilty of a capital crime.

But the facts are that many — if not most — Indigenous people go to prison for relatively short periods as the result of relatively minor offences.

The prisons are bursting at the seams with our people who are there for failing to pay fines or for trivial things such as possessing a stolen can of beer.

We cannot reduce the effort put into diversionary programs in the outside community if we are to bring about any real change for the better.

But now we must insist on similar philosophies being applied inside prisons to head off the likelihood of recurrent offences.

Every one of us here today knows that prison can be the most influential classroom an individual ever attends.

Yet we don’t see enough evidence of departments of corrective services looking at how they can break the cycle.

In my view, they are not doing enough to equip people with the skills to stop them returning.

We see increased budgets for correctional staff and facilities.

But this is the wrong priority, surely.

Why can’t we take some of the principles and best practice examples used successfully in the community and apply them to prisons to ensure that first-time offenders never make a return visit?

In pursuing this thought, there are a number of foundation principles that must be recognised.
The best examples of best practice are those delivered by Indigenous agencies in partnership with governments.

A crucial ingredient in the recipe for success is that there must always be acknowledgment of the input from the Indigenous community.

Meaningful collaboration and consultation will undoubtedly ensure this.

The ultimate best practice, of course, is to apply the principles of all 339 recommendations of the Royal Commission — in structured, holistic innovations.

In addition, the implementation of best practice models will often require law reform and even some reference to customary law.

**Peer support**

Let’s look firstly at one of the greatest and most widespread successes of all diversionary activities.

In urban and remote communities around the country, Indigenous night patrols pick up children and young people on the streets at night to convey them home or to places of safety.

They take intoxicated people to sobering up shelters.

This form of community self-management operates in liaison with local government, police and health agencies and sometimes even local businesspeople.

An example that comes to mind in my own state is the decision taken last week by Woolworths in Townsville to stop selling methylated spirits after an approach from the community which saw those sales as a factor in fast-tracking people to the grave.

These programs aim to reduce the incidence of alcohol-related violence and offences.

The question is — why can’t we see the adoption of similar principles in prisons?

We have communities of Indigenous inmates behind bars.

Why can’t we develop similar processes for community and peer support?

Family conferencing programs and juvenile mentoring schemes have produced substantial successes outside the prison environment.

It must be possible to adopt the principles behind bars.

I’d like to see a scheme established whereby responsible members receive official cooperation and support to act as mentors for fellow Indigenous inmates.

I think this would be of particular value to short-term and first-time inmates, who would benefit from guidance that kept them away from activities that might extend their stay.
In co-operation with prison authorities, the Indigenous community could be encouraged to self-manage itself in its own best interests.

At the same time, the community could be encouraged to develop its own conferencing processes to resolve conflicts and provide supportive intervention for young offenders in particular.

**Cultural training**

An important associated initiative is cultural training for inmates.

Some departments have already moved on this matter, but we need to see more.

Education on cultural matters and re-integration into Indigenous community life both inside and outside of prison could play an important role in improving self-esteem and reducing recidivism.

This should not be left until parole and probation — it needs to be instituted as part of the holistic response to the burgeoning prison population.

As I’ve already indicated, I believe education and vocational training are essential to the rehabilitation of offenders and I don’t believe corrective services are doing enough.

But Indigenous cultural values — whether contemporary urban Indigenous values or traditional values — have a powerful role to play in developing a sense of responsibility to the community.

Training in cultural values offers particular benefit to young offenders, who often find themselves caught up in the justice system as the result of a lack of self-esteem.

They can also lack a sense of community structure and sense of community responsibility.

Indigenous cultural institutions will need to be involved in the development of such schemes.

Some local Indigenous organisations have already established pilot ‘buddy schemes’ under which they have established links with Indigenous residents of correctional centres.

Of course, Deaths in Custody Watch Committees will also have a principal role to play in the development of this type of scheme.

But the real value of such processes can only be realised when the justice system itself recognises and embraces the concept.

In fact, vocational and cultural training programs should be seen as having a natural and inevitable link — especially where the opportunity exists to develop and market artistic and craft skills.

This link should be uppermost in considering how to implement the range of principles identified in the report of the Royal Commission into Aboriginal Deaths in Custody.
I was fortunate enough to be able to reconvene four of the Royal Commissioners earlier this year, each of whom gave willingly of their time and wisdom.

Their uniform view was to feel disappointment with the slow progress made since they released their final report in 1991.

But they reiterated a belief that the recommendations were still as valid now as they were then.

On this note — and in closing — I think it's appropriate to repeat some harsh but unfortunately true words spoken by another prominent person associated with the Royal Commission.

The last major display of government interest in these matters was the national ministerial summit on Indigenous deaths in custody held in Canberra on 4 July 1997.

The former Aboriginal and Torres Strait Islander Social Justice Commissioner, Dr Mick Dodson, offered the following comment — in his usual blunt but honest manner — to the gathered Ministers.

I quote:

_We trusted you in the past, when you said you would implement the Deaths in Custody report — but you present us with excuses that it was not your doing but that of the previous government._

We have learnt from this denial of responsibility. We do not want more promises.

It is time to tell you that if our people are dying in custody at this rate as the year 2000 approaches, we will make sure the whole world knows about it.

Sad to say, Mick Dodson's words remain highly relevant two years down the track.

We will only see real change once governments and their agencies embrace holistic policies.

And this embrace must be built on appreciation of the fact that only _best practice_ will deliver _best results._

It is up to us to maintain a vigilant assessment of the efforts that are going into keeping Aboriginal and Torres Strait Islander people alive and out of prisons.