BREAKING THE CYCLE
ADDRESSING RISK FACTORS CONTRIBUTING TO
THE OVER-REPRESENTATION OF ABORIGINAL
YOUTH IN THE CRIMINAL JUSTICE SYSTEM

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Paper presented at the Conference
Reducing Criminality: Partnerships and Best Practice
convened by the Australian Institute of Criminology, in association with the
WA Ministry of Justice, Department of Local Government,
Western Australian Police Service and Safer WA
and held in Perth 31 July and 1 August 2000
Abstract

Despite genuine attempts at reform, Aboriginal and Torres Strait Islander people continue to be arrested and imprisoned at rates which are many times greater than those of non-Indigenous Australians. Strategies which divert offenders from the formal criminal justice system, juvenile detention and imprisonment can reduce the level of involvement of Aboriginal and Torres Strait Islander people in the criminal justice system but are an incomplete answer. Only through programs which address those factors shown by research to be associated with an increase or decrease in the risk of the development of offending behaviour can we achieve an enduring solution.

The Aboriginal Cyclic Offending Project has been implemented at two pilot sites in Western Australia with a view to “breaking the cycle” of involvement of Aboriginal young people in the criminal justice system. Key elements of the program are partnership between Government and Aboriginal people, coordination of effort across agencies, targeting of crime “risk” and “protective” factors, information-based decision making, local management, and rigorous evaluation. The first part of this paper will provide an overview of the research and policy background to the project. The second part will describe the implementation of the project at the Geraldton site and explore some of the structural and process issues which have needed to be addressed.
“There is no other way. Only the Aboriginal people can, in the final analysis, assure their own future.” ¹

“We cannot spend our lives fighting the justice system, there must be another way.” ²

Introduction

The Royal Commission into Aboriginal Deaths in Custody was established in October 1987 in response to concern that deaths of Aboriginal people in custody were too common. The Commission is probably correct in describing its work as the most comprehensive inquiry into aspects of the lives of Aboriginal people and the policies affecting them.³ Although the Commission found that the standard of care shown towards people in custody was generally poor, it did not find that Indigenous Australians died in custody at a greater rate than non-Aboriginal people ⁴. What it did find was that Aboriginal and Torres Strait Islander people were greatly over-represented among those in custody ⁵. And although the Commission identified law and justice as a major concern, it found that the single most significant factor contributing to the over-representation of Aboriginal and Torres Strait Islander people in custody was their disadvantaged position in Australian society.

Almost a decade later, the Western Australia Aboriginal Justice Council called for the development of, “a set of strategies to halt the early involvement of Aboriginal children and youth in the criminal justice system” ⁶, and a 1996 review of the South Australian system of juvenile justice urged the development of “programs for ‘at risk’ Aboriginal youths … to prevent these young people from becoming involved with the juvenile justice system in the first place”.⁷ It was in response to calls such as these that the 1997 National Ministerial Summit on Indigenous Deaths in Custody resolved to develop strategic plans at the national, state and local levels to address underlying social, economic and cultural issues associated with the over-representation of Indigenous people in custody.

¹ Royal Commission into Aboriginal deaths in Custody (1991), Final Report of the Royal Commission into Aboriginal deaths in Custody, 1.7.9, AGPS, Canberra
² Recommendation from the Busselton Conference for the Aboriginal families whose relatives died in custody, cited in Our Mob Our Justice: Keeping the Vision Alive, (1999), Western Australia Aboriginal Justice Council
³ Royal Commission into Aboriginal deaths in Custody (1991), op cit
⁴ This is not to suggest that deaths in custody is not a serious issue. In Western Australia several strategies have been implemented in prisons to minimise the risk of death in custody and a further examination of strategies is currently in progress.
⁵ The level of over-representation varies between States. Western Australia is in the unenviable position of having the greatest level of over-representation. Despite implementation of a range of criminal justice and other initiatives the level of imprisonment of Aboriginal people remains very high. At March 1999, the ratio of Indigenous to non-indigenous rate of imprisonment in Western Australia was 22.0: Australian Bureau of Statistics (2000). Australia Now – A Statistical Profile, AGPS, Canberra.
Risk and protective factors and the disadvantaged position of Aboriginal people in Australian society

Numerous papers and reports have commented on the disadvantaged position of Indigenous people in Australia today. Measured against a range of indicators, Indigenous people continue to be severely disadvantaged. In a paper presented in April of this year at the Australian Indigenous Education Conference, Mr Ken Wyatt, Director Aboriginal Education in the Education Department of Western Australia commented that, relative to non-Indigenous people, Indigenous people are several times more likely to –

- live in a makeshift dwelling;
- have been abused or neglected as children;
- have much lower school achievement;
- die at a much younger age;
- be unemployed; and
- have a much lower median income.

All of these have been shown by research to be associated with an increased risk of criminal behaviour and involvement with the criminal justice system. A compounding issue is that, when operating in combination, as they often are in Indigenous communities, these factors can have a multiplier effect which further increases the risk of a child progressing to an offending lifestyle. Fortunately, there are several factors which affect the way children develop and exposure to these so-called “risk factors” does not necessarily mean that a child will end up as an offender. There are also influences on the positive side which have a counterbalancing effect. Commonly, these are referred to as “protective” factors and include such things as -

- good physical and mental health;
- parental employment;
- adequate housing;
- a stable family environment;
- consistent parenting; and
- positive school achievement.

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8 Beresford and Omaji (1996), *Rites of Passage, Aboriginal Youth, Crime and Justice*, Fremantle Arts Centre Press, Fremantle, report an unemployment rate of 70% among 16 year old Aboriginal youths not in education. An estimated 59% of Aboriginal and Torres Strait Islanders receive an annual income of less than $12,000 p/a and a further 9% receive no income at all. See R Madden (1995), *National Aboriginal and Torres Strait Islander Survey 1994: Detailed findings*, Australian Bureau of Statistics, Canberra
12 Ibid
A way forward

In theory at least, this provides us with a simple formula for effective crime prevention. By targeting those children who are exposed to the greatest risk and intervening to reduce the level of “risk factors” and enhance the level of “protective factors” we should be able to reduce the likelihood of the development of offending behaviour. Indeed this has been the finding of a number of independent studies. By supporting families of children at risk, helping their mothers and fathers develop better parenting skills, improving their children’s physical and mental health, fostering their school attendance, and intervening to reduce the incidence of child abuse and domestic violence we can be confident that we can reduce the level of involvement of children at risk in the criminal justice system.13

A Western Australian example

I now will shift gears. Having provided you with a taste of the theory, I would now like to turn to a practical example of this approach which we are currently implementing in Western Australia with the specific aim of halting the early involvement of Aboriginal children and youth in the criminal justice system. Development of the model was jointly commenced in 1997 under the joint sponsorship of the Western Australia Justice Coordinating Council and the Western Australia Aboriginal Justice Council.14 Based on international, national and Western Australian research on “what works”15, the approach recognises the primacy of -

- a focus on risk and protective factors;
- equal partnership with Aboriginal people;
- information-based, targeted interventions;
- intersectoral collaboration and coordination between agencies of Government, local government, non-government and voluntary agencies, and the private sector;17
- “local solutions for local problems”; and
- “built in” data collection and evaluation.18

14 The Justice Coordinating Council includes State Ministers and Chief Executive Officers with responsibilities for Justice, Legal Aid, Police, Aboriginal Affairs, Family and Children’s Services, Health, Education, Employment and Training, Youth and Public Prosecutions and has a main purpose of ensuring a coordinated, “joined up” approach to justice issues including those affecting Aboriginal people.
15 Formed in 1994, the Aboriginal Justice Council is comprised of Aboriginal people from around the State of Western Australia. Its role is to advise the Government of Western Australia on the priority needs of Aboriginal people and monitor the implementation of the Royal Commission into Aboriginal Deaths in Custody. It is supported by a State-wide network of Regional Aboriginal Justice Councils.
17 Since a wide range of agencies is involved in the delivery of services relevant to addressing “risk” and “protective” factors, it is necessary for agencies to work together to achieve the desired outcomes. Intersectoral collaboration of this kind is not easy. Useful references in this regard are: The New Oregon Trail: Accountability for Results (1996), Institute for Educational Leadership, Washington DC; and Review of the Social Exclusion Unit (1999), Department of Prime Minister and Cabinet, London, England.
18 The Report of the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, April 2000 concluded that “A clear diagnosis was needed to develop effective crime prevention measures. That diagnosis should identify and target risk factors and segments of society. All individuals and groups they represented should be involved in efforts to prevent crime at the local level. … Responses should be multifaceted and involve a wide array of initiatives. They should be executed by means of partnerships among formal criminal justice entities,
From theory to practice

The approach has now been piloted at two sites; one in Geraldton a town roughly 500 km north of Perth and a second at Midland a suburb on Perth’s eastern fringe, and we are about to expand to additional sites. A cornerstone of implementation has been the development of so-called "Framework Agreements" at the State and local levels between Government and Government agencies and Aboriginal people. These agreements commit all of the participants to work together to -

- identify local issues and priorities;
- negotiate desired outcomes;
- develop agreed service delivery plans; and
- evaluate outcomes.

We are in this for the long haul. We are already seeing process improvements and have reason to be confident of medium term gains in areas such as better child health, school attendance, housing and so on, but we know that improvements in criminal justice indicators such as lower arrests, court appearance, rates of detention and imprisonment and reported crime will take considerably longer to achieve. Primary crime prevention takes time, commitment, and persistence as well as a lot of hard work.

Mine has been the easier part in this exercise. The people who have really put in the hard work are those who have had to make things happen on the ground. I will now hand over the podium to Ms Merrilyn Green, the Coordinator of the Program in Geraldton who will tell you how she and her Aboriginal and non-Aboriginal colleagues in Geraldton have responded to the challenge of turning good theory into good practice.

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19 Potential expansion sites are currently being evaluated based on a quantitative assessment of need, and qualitative assessments of the capacity of the Aboriginal community and the capacity of the Government agencies in the respective areas to support the project.

20 These are described in a July 2000 report on the Geraldton pilot prepared by an Aboriginal consultant, Mara West. Mrs West commented, among other things, on the signing of a framework agreement between the regional managers of Government agencies and the Aboriginal Reference Group, greatly improved liaison between the Aboriginal community and Government agencies in Geraldton, signing of local service agreements between the Geraldton Aboriginal Reference Group and Government agencies, and more positive reporting of Aboriginal affairs in the local newspaper.