

Aboriginal & Torres Strait Islander Legal Service (QLD) Ltd

Brisbane Roundtable – Supplementary Submission

Following on from the Brisbane Roundtable, held on 21 August 2008, the Aboriginal & Torres Strait Islander Legal Service (Qld) Ltd provides the following additional commentary. A report on the Brisbane Roundtable is included in the 'Report on Lead-up Activities' in participant's compendiums.

Greater focus on crime prevention

It is economically sensible to spend money on Education "Upstream" than on expenses associated with the Criminal Justice System ("CJS"), "Downstream". If the average cost of incarceration per annum for a detainee in Queensland varies between \$60,000 and \$75,000, then spending a fraction of that sum on Education is a long term saving.

Thus, in Victoria where there is 1million more people than Queensland in the general population, Victoria has some 2000 less in its prison population. You can easily extrapolate the potential budgetary savings of reducing the prison population in terms of billions of dollars, without also factoring in the savings gained in the other parts of the CJS. What does Victoria offer as best practice in the CJS for the Attorney-General to put forward in meeting with his State counterparts? We elaborate on this:

We are well aware of the correlation between youth disengaging from the Education system and their entry into the CJS. What would assist in the Education of Aboriginal and Torres Strait Islander children often would also apply to children in rural and remote areas.

We offer these illustrations of the reasons for disengagement. Their parents:

- don't put food on the table;
- don't encourage the child in their studies;
- can't provide transport for them to get to school;
- are dysfunctional so that the child internalises their problems.
- We put forward these ways to counter these disadvantages:

Food

The issue of food is important on many levels:

- There is the health aspect. The high incidence of malnutrition amongst Aboriginal and Torres Strait Islander young people is notorious and rivals the incidence in developing countries. Feeding the child is vital.
- From a long-term health perspective, introducing the child to nutritional food at an early age is education on 'healthy eating'.

- There is the incentive aspect. In other words, if the child gets a meal at school they will be encouraged to go to, and stay at school.
- There is the learning aspect. Children who do not eat properly do not learn. That is part of the reason for our children not learning.

Though it has been thought for this issue to be addressed by quarantining parents' Centrelink payments, this does not solve the practical aspect of getting the food to the child. Plainly the opportunity to do this is when the child is at school.

The idea of providing meals at schools has worked successfully in other areas. It is a generic problem in remote and rural areas for the people there, irrespective of their ethnic background. We realise that such a plan would require a 'cross- government' approach with the Education Departments in the States. It maybe that also their Health Departments would contribute as malnutrition/ healthy eating is also one aspect that is addressed.

Transport

Many of our people live in areas which are not well serviced by public transport.

Many do not have their own motor vehicle or have a driver's licence. There is also the issue of safety for the children in getting to and from school.

It is pointless to lament that our children do not attend school when they have the practical difficulty of travelling to school. The only practical way to address this matter is to provide them with transport. The transport has to be more caring than just picking up the children at a designated stop. The transport may need to route past the doors of the homes of the children. We suggest that it would not be at huge cost for a 'mini' bus to do the rounds of homes to schools twice a day.

These are suggestions for what works! The Murri School, on Brisbane's south-side, does this and its success in educating children who go on to become productive members of society, demonstrates the effectiveness of this solution!

Surrogate parents—aide at schools

It seems that up to about grade 3 our children are at a similar level to other children. However, divergence in levels then becomes apparent. While there are many opportunities for our young people when they are at the senior secondary school level and university entry level, so many do not go beyond achieving basic literacy, albeit they finish secondary schooling. It is at primary school level the issue must be addressed.

Under this heading we have in mind a person who might be categorised as a 'teacher's aide' but whose function is more on an emotional than on an academic level. For convenience, we describe the person as an "aide". We know that at primary school level, such a person has brought about excellent results in regard to attendance and performance of our children. In some respects the 'aide' would act as a surrogate parent. Sometimes the child needs this resource because the people who put the child at risk are family members. The child will need this resource if the parents are dysfunctional due to drug or alcohol misuse or because of inherent mental or emotional causes.

Other Departments may need to link with Education Departments to fund a pilot scheme for aides in selected primary schools, where our children form a significant proportion of the school population. We believe that there is an untapped pool of people who would want to work as an aide. The preferable criteria for this person should not be academic but cultural, their life experiences and people skills. Programs, which provide the services that we envisage an aide will provide, would need to be funded throughout the school year. It is counterproductive for the children's outcomes for an aide to be employed for only part of the year.

We see this as an effective way to stop youth disengaging from the Education system and hence stop entry into the Criminal Justice System ensuring that the children have transport to school, get two meals at school and have the emotional support of a person (who we have labelled) an aide at school.

Draw on the experience that has been learned from the Murri Court initiative

The initiatives of the Murri Court build on:

- being culturally appropriate
- providing intervention education
- having an effective support system with referrals to suitable agencies
- informing on cultural aspects

Other factors which have made for success of the Murri Court, and which could be applied in conferencing and in cautioning and generally preventing young people from entering the CJS are these:

- Select appropriate Elders to be at a conferencing or cautioning session.
- Where possible, the Elders should know of the client or their family.

Without the mantle of authority that the Elders give, the process would be seen as 'white man's' law and treated with indifference by our youth.

Of great importance, is the need for the Elders to be from the area or tribal group of the offender. A 'mainstream' perception, that Aborigines have generic culture or allegiances, is not correct. We have observed that the significant factor for 'shaming' to be effective (in terms of recidivism) is the connection of the Murri Court Elder with the offender's "country". This Elder cannot be ignored by the offender nor can the offender 'shrug off' this Elder's comments.

Contrary to fears that this familiarity would lead partisan bias, the Murri Court experience is that the defendant is 'shamed' by the Elders' knowledge of their family and the comments of the Elders. The process is indeed punishment. From our experience with Aboriginal youth, publication of the offender's details amongst the general population is not effective in rehabilitation. Shaming is effective in reducing recidivism when the people who are informed of the offender are from the group with whom the offender identifies.

The value of the Murri Court needs to be explained in recidivist rates to demonstrate the economic savings it provides to Government as well as its social benefits. For the past 3 years our organisation has represented our people who have appeared in the Murri Courts in the

Brisbane region. Hence, we can be confident about our comments on the reduction in recidivist rates amongst those who have appeared in the Brisbane area Murri Courts.

It is only our clients who have the real likelihood of receiving a sentence of imprisonment who are selected to go to the Murri Court. This real likelihood is usually due to the fact that the offender is a persistent recidivist. Your Office has access to the exact figure, but for this illustration we have selected a figure of 400 over the past 18 months, which figure is well below the actual number of our people who have attended the Brisbane area Murri Court. Of our clients who have appeared in the Brisbane area Murri Court, not more than 12% have reoffended. Don't say, "12% recidivism", and leave it at that, instead say, that of a population of persistent recidivists, of whom most were likely to reoffend, only 12% did. This is 88% success rate! Or, to translate it into savings, the amounts noted under point A can be extrapolated.

Mentoring by an appropriate "Indigenous" person

Some of our parents need to learn how to be parents. Sadly, where there is no other model to use, a parent may simply adopt the practice of the dysfunctional circumstances in which they were raised. An Aboriginal (and/or) Torres Strait Islander Officer is best placed to give advice to the client youth's parents and engage the parents in appropriate behaviour. Thus, it is difficult to support the youth get off drugs if there are other family members with the same problem.

Assisting a family often covers a wide range of matters. It is not only in helping the youth remain out of the CJS or referring to counselling services. Usually the family needs assistance to manage finances, in seeking employment and organising accommodation. The whole-of-family approach is needed. One community groups has had success in helping youth rehabilitate by gathering in the whole family. This has led to linking other families to provide mutual support, even simple activities help normalising the lives of these families.

Departments might build on the success of the initiative of some agencies and actively recruit Aboriginal and Torres Strait Islander employees as "Indigenous Case Workers". The further special value of these Indigenous Case Workers is that:

- They overcome the communication barriers that exist between our young people and authority figures.
- Can anticipate the particular needs of our youth.
- Can engender a respect for their authority because they do their job in a culturally appropriate way.
- Effective bridge the divide between "mainstream" and our youth.
- Can "tap into" our community human resources to help young people.

Mentoring system for those already in the CJS

We see a "mentoring" system as fundamental to the success of any program which aims to address the needs of our young people who are in, or are at risk of being involved in, the CJS. This is certainly so for our youth and we would think that our experience in regard to the success of a mentoring system would be also relevant for youth generally.

Establishing trust between the mentor and the client should be Inherent in the mentoring system. One aspect of establishing this trust is continuity of the mentor and that also means continuity of the program under which the mentor is funded.

Examples of a mentoring system are:

- Where a detainee is linked up with a mentor who will prepare them for their eventual release from custody and then help them on their release in the transition to a contributing member of the community.
- Where a mentor helps a young person who has not been attending school and who has come into contact with the Law, to address these issues.
- A mentor can work with a family to help the parents of the child at risk to address their issues, and with a view to this helping the child.
- A mentor might coordinate delivery of the necessities of life, where the young person does not know how to, say: access training; the job market; accommodation that is safe; appropriate medical care or counselling.
- A mentor might arrange for the young person to be fed or for transport to school, in situations where otherwise the person would simply miss out.
- A mentor might be a trusted individual who is available for the young person to confide in when their family is dysfunctional and there is no one else they can trust or, in any practical sense, turn to for advice.

One of the successes of this approach has been the recruiting of former clients to help our officers. These mentors are accepted by clients because they can say, “*I know because I’ve been there too*”. It may be a person’s status as a respected sports person or their status in the community that makes them mentors.

Alcohol misuse

Alcohol Misuse is the single most destructive influence in our communities. It is also a significant factor in mainstream society as the stories of battered wives, hospital records and matters that come into the CJS show. In March 2008 we responded to the call by the Queensland Treasurer for submissions on reform of the Liquor Act. We put forward ways to address this issue. We drew on the 2007 evidence-based research of the National Drug Research Institute, Curtin University of Technology (www.ndri.curtin.edu.au) (“NDRI”) *Restriction on the Sale and Supply of Alcohol: Evidence and Outcomes*. Again, we suggest that the AG may be able to liaise with his State counterparts to create a national approach to this issue.

Trading Hours—Objectionable Practices

These studies show that alcohol misuse decreases when extended trading hours were reduced. We endorse restricting trading hours and trading days. While total prohibition can grow its own problems, restricting trading hours seems not to encourage sly grog. While ‘usual’ trading hours are 10am to midnight, we suggest that they be further restricted. We cannot see the rationale for opening at 10am. At least, trading might be regulated to not start before noon.

But, we must note that inherent in the situation of alcohol misuse for our people are these matters:

- cheap liquor as typified by low-grade cask wine
- irresponsible licensees
- oversupply of bulk liquor
- sly grogging.

Again, we appreciate your inviting our organisation to attend the Forum and regarding us as a key stakeholder in the process of reform of these issues both within our State and across the Nation.

We look forward to further engaging with both the Attorney-General's Department and the Australian Institute of Criminology.