

ABORIGINAL INCARCERATION: PRE-RELEASE AND DIVERSIONARY PROGRAMS

Speech Notes for a Presentation to a meeting of the
Executive Management Committee
South Australian Department of Correctional Services,
Adelaide
11 November 1985

Kayleen M. Hazlehurst

Over two years ago William Clifford, the former Director of the Australian Institute of Criminology, asserted that Aboriginals were possibly the most imprisoned minority in the world. Being only 2 per cent of the total population they accounted for 30 per cent of the national prison population (Australian Society 1 June 1983). This message was revoiced recently by our present Director, Richard Harding, who pointed out at an Australian Institute of Criminology workshop this May that imprisonment of Aboriginals today was seventeen times higher than that of non-Aboriginals in Australia. Of course, in some states this figure is much higher. In the Northern Territory they comprise over 80 per cent of the prison population.

The predominant number of Aboriginal prisoners are males, under the age of thirty, serving relatively short sentences - between 3 and 6 months. Aboriginal women also are disproportionately represented in the female prison population. Other factors which have no doubt been observed by your own correctional staff include a notable pattern of recidivism, fewer formal educational qualifications, higher unemployment, and frequent ill health and alcoholism among Aboriginal prisoners. All these factors are causes of concern to correctional people who, at the tail-end of the criminal justice process, inherit these problems. It is they who must implement the penal sanctions which that process, in its wisdom, has deemed suitable to each offender.

In its concern for Aboriginal recidivism, the Western Australia Prisons Department conducted a study of experience in that State. They concluded:

Overall, the probability of recidivism for Aboriginal male prisoners was 80% (SE 2%) and the median time to fail (reincarceration) was 11.3 months and 18.6 months respectively. Female Aboriginal recidivism was 75% (SE 4%) and female non-Aboriginal 30% (SE 7.3%) and the median time to fail is 15.9 months and 19.3 months respectively. Higher recidivism is observed for male, Aboriginal and young prisoners.

However, it was observed that a 'general downward trend in recidivism had been noted between 1975/76 and 1978/79 although less marked for Aboriginal prisoners and not continuing beyond 1979/80' (Broadhurst, Connaughton, Maller and Maller, 1985). You may wish to compare these figures with your own rates of Aboriginal recidivism in South Australia.

There are two aspects of corrections policy and practice which I would like to discuss. The first, and most immediate, concerns the way in which corrections are to accommodate, treat, and possibly rehabilitate Aboriginal prisoners; the second relates to the broader discussion of the relevance and effectiveness of the contemporary penal process.

Few members of your correctional staff would disagree with the assertion that Aboriginal prisoners present a particular problem - not only because they are over-represented in our prisons - but in terms of a whole range of social and cultural factors, our understanding of which in recent years has brought into question both the punitive and the rehabilitative value of incarceration.

The special needs and problems associated with Aboriginal prisoners for correctional staff - which may include considerable attention to health, dormitory allocation, communication, recreational and vocational activities and prisoner interaction, antipathy and racial hostility - are made unnecessarily burdensome, I believe, by the very fact that a large number of Aboriginal prisoners simply should not be there.

In our more cynical moments we might be tempted to feel that prison should not be 'fun'. 'Why should a person, after committing a crime, experience more privileges after entering prison than he or she experienced before imprisonment?' If this is the case for many Aboriginals it is more of a comment upon the harshness of their deprivation in the wider society than it is a comment upon the 'softness' of prison life.

Society's oscillation between its desire to punish and its desire to reform its deviant population must be tempered by the hard facts of scarce resources. We must realise that it might be simpler and cheaper, in the long run, to concentrate our energies upon reform than to indulge a passion for punishment.

Ironically, in the case of many Aboriginals, prison holds little deterrent value. Some researchers have even claimed that prison life can be seen as an incentive to crime - a good place for a wash and a feed, a warm bed, a way to dry-out and re-establish one's health, to have a holiday, be with one's friends and family and to prove one's manhood. This, surely, makes a mockery of the two pillars of our criminal justice system - protection and deterrence. We must consider that, for the minor crime recidivist and the fine defaulter, incarceration alone manifestly does not achieve its intended objective where Aboriginals are concerned.

SPECIAL PROGRAMS FOR ABORIGINALS

There is some hope that, while in prison, Aboriginals might acquire the necessary life-skills, trade, and work experience to free both themselves and the system from the treadmill of their return. In self-protection the system attempts to catapult the re-moulded individual back into the bosom of society. With some prisoners, the reform has been successful; and for the sake of these, prison programs are worth pursuing. The way in which various Welfare, Health, Educational and Aboriginal agencies have collaborated with Corrections Departments in establishing these programs has been most encouraging. I will relate two such programs here.

Western Australia Prisons Department: Aboriginal Welfare Officers

Under the Western Australia Prisons Department, a special program, employing seven Aboriginal Welfare Officers (out of a total of 20 Welfare Officers) at Kalgoorlie, Roebourne, Broome, Fremantle and Canning Vale, has been in operation since 1979. The Aboriginal Welfare Program was developed through Federal funding.

In the towns of Kalgoorlie, Roebourne and Broome between 80 and 90 per cent of the prison population is Aboriginal. The Aboriginal Welfare Officers do not have a specific brief to tend Aboriginals in country areas. But in metropolitan centres, where Aboriginal prisoners represent between 33-40 per cent of the prison population, Aboriginal Welfare Officers have been instructed to devote their services to Aboriginal prisoners.

An Aboriginal Welfare Officer Task Group meets regularly to discuss their concerns. Predominant among these are the reincarceration of Aboriginals by fine default, the problem of communication, low education and health standards and so forth.

In Western Australia it has been observed that 40 per cent of Aboriginal offenders are in for fine default, serving short sentences of less than 6 months. Treatment of Aboriginal needs is further complicated by varying levels of socio-cultural assimilation of the prisoners. In Broome many of the prisoners are classed as traditional men - 'tribal law initiates'.

Traditional Aboriginals who have been imprisoned for an offence have very often also transgressed against tribal law as well. 'Imprisonment in such cases', pointed out Broome psychologist Pat Lowe:

... becomes an additional burden or may sometimes become a means of postponing or avoiding tribal punishment, but in any event

it is not the 'real', significant penalty owing to the offended group. More often than we Europeans may care to recognise, Aboriginal offenders do face a second punishment after their release from prison (Lowe, 1985, pp. 35-36).

The fate of such a prisoner, Lowe pointed out, can be quite a tragic one. The offender may be under threat of payback sorcery while in prison or may undergo considerable mental agony anticipating tribal punishment when he returns. On fortunate occasions mental ill health might be averted by the intervention of an elder who can persuade the community to take the suffering of the prisoner into account as partial restitution. Under the supervision of the elder on his return to the community, tribal punishment might be limited to only a public shaming or a mild beating. On the other hand, guilt in traditional Aboriginal society is not always as clear and unequivocal as under European law. Sometimes a prisoner may return home and find that, in the community's opinion, he or she was not to blame.

A higher proportion of Aboriginal prisoners in Western Australia prisons are fringe-dwellers who, by their life-experiences, tend to be more institutionalised and more expectant of imprisonment as part of their lifestyle. The Nyungar community - people of Aboriginal and non-Aboriginal descent in the south-western part of the State - are the most deculturated and urbanised. Their poor standard of living and non-standard English reinforces their state of social and economic marginality between both the Aboriginal and white Australian worlds.

Aboriginal Welfare Officers provide a full range of assistance to Aboriginals in prisoner admission, orientation, and transfer; mediation between the prisoner and his family or community, the Prison Administration and other agencies; settlement of property or matrimonial matters; application for compassionate leave and, in the organisation of work-release and special leave. The Aboriginal Officer's role, in sum, could be described as one of mediator, advocate, counsellor and cultural broker.

Education

In the last two years the Western Australia Prisons Department has been running what they call 'bridging programs' to enable Aboriginal prisoners to take courses in the Western Australia College of Advanced Education. Two such programs, the General Education Certificate (a year 10 equivalent) and the Aboriginal Advanced Education Certificate (a year 12 equivalent), can bring a student up to high school matriculation and College entrance level. Tutors from the WA College and TAFE provide this training.

Another general program of Aboriginal Adult literacy - which provides basic literacy and numeracy is said to operate in every prison in the State. The courses are run by Aboriginal teachers, Aboriginal teachers'-aides and European teachers employed by Corrections. In addition some bi-lingual programs have been established which provide tuition in both English and the Aboriginal dialect of that region.

In the Western Australia experience such educational schemes can be initiated with Federal funding, but the requirement of applying for funds well in advance, and the expectation that the programs should be weaned from Federal funds and picked up by the State can cause disruptions. They have found it has been better to allow the WA College itself to arrange prison education, and to seek appropriate support.

A further small, but not insignificant, point has been the discovery by the Western Australia Prisons Department that they must design (or commission the design of) their own curriculum and adult readers. Culturally relevant literature at the appropriate educational level simply does not exist.

New South Wales Department of Corrective Services: Aboriginal and Ethnic Affairs Unit

This unit has two fulltime staff, one acting as co-ordinator and the other, who is an Aboriginal, acting as their Aboriginal Liaison Officer. The unit has several functions in:

1. **Welfare:** working with Aboriginal clients, identifying their personal, medical and training needs;
2. **Conciliation:** handling complaints within the prison system and in acting as mediators between conflicting parties;
3. **Training:** providing cross-cultural training for correctional staff;
4. **Policy:** helping to address matters of policy to management and head office and to draft Aboriginal affairs policy for the Corrective Services Commission; encouraging greater cross-cultural awareness, a greater degree of Aboriginal input into policy and more Aboriginal staffing in Corrections.

The Broader Support Network

The introduction of the Aboriginal component into New South Wales correctional policy was part of an 'affirmative action' project to reduce Aboriginal recidivism. Special programs are seen, I must stress, as only one element of a larger, co-ordinated support network which must needs be established. This view has

been confirmed by the recent work of Dr Christian Alexander. Alexander's action-oriented research has developed proposals for the establishment of a whole infrastructure of inter-connected internal and external programs. This project would link Corrections with educational and social welfare agencies, Department(s) and Ministry(s) of Aboriginal Affairs, the workplace and the community, to provide follow-through support until the prisoner-trainee exits the prison and rejoins society.

The success of the program would not be placed solely upon the shoulders of corrective institutions, but would be shared by several collaborating agencies. Internal educational and vocational training courses could be followed through to work-release and post-release employment, as well as other community-support programs in housing, alcohol rehabilitation, health and so forth. It is clear from this that the objective of such a project is to draw on community support systems to help break the cycle of release and re-offence.

It has been proposed that an inter-departmental task force, established to steer the project, include representatives from Corrections, the Aboriginal Unit, TAFE, Health, Welfare, Aboriginal Affairs and other co-opted members where necessary. (The value of this approach has also been discussed in Hazlehurst, 1985.)

The point which has been clearly made by those involved is that the project, in order to succeed, must see that the whole support network is put in place. The New South Wales Department of Corrective Services is now, very seriously, considering Christian Alexander's proposals. Programs already established are:

Silverwater jail - work release scheme (government subsidised job, can continue in job on release).

Bathurst - pre-trade programs (numeracy, literacy) and trades-training.

Lismore, Broken Hill, Moree - (probation, parole specialists).

In a situation where racial discrimination and hostilities exist, an Aboriginal offender is easily provoked into re-offending while in prison. As one prison officer said, 'Give me an Aboriginal for two years and I will have him for twenty'. The staff of the New South Wales Aboriginal and Ethnic Affairs Unit are of the opinion that Aboriginal people need co-ordinated support within the system, to avoid this situation.

The introduction of Aboriginal staff into correctional institutions, of programs which bridge the linguistic and cultural gaps, and of buffering Aboriginal prisoners from non-Aboriginal prisoners and staff are only the beginning. Proposals

for the establishment of a co-ordinated network of programs, designed to maximise the advantages of each, and with the aim of re-integrating the offender into society rather than setting him or her upon the path to re-offending are more likely to impact upon Aboriginal recidivism rates than the mere pursuit of punishment.

The skills which are taught to Aboriginals in prisons, however, must clearly represent values and goals with which the Aboriginal community and the Aboriginal trainees identify, and deem worthwhile. The recent shift in emphasis in the Federal Department of Aboriginal Affairs on the funding of large scale education programs may provide new mood and opportunity which State corrections could tap.

DIVERSION

I first became interested in this area in 1975 when speaking to a group of Inuit elders in Nain, on the Northern Labrador coast, Canada. They asked me then:

Why can not a young person, who has thrown a stone through a community hall window, be taken in hand by his community elders? Why can we not teach him the wrongness of his act, show him how to mend the window, make him paint the wicker fence and tidy up the hall grounds as punishment - rather than have the RCMP take him to court? In the process he may learn a skill and learn to appreciate the hall.

The hazards of the criminal justice system for a remote indigenous community are clear in another case from this same community. A young married man had been sent to jail in the South for a minor alcohol-related offence. While there he suffered the social and linguistic isolation of foreign jails. In the meantime, his young wife, who was dependent upon her husband to hunt caribou to supplement the irregular and always insufficient supply of limp vegetables and ice-covered pork chops flown or shipped in from the South, was left without support for herself and his children. In his absence she became involved with another man in the town who kindly hunted for her family. On the husband's return he attacked and killed the 'lover' in a jealous rage.

To the local people the connections were simple. A man convicted of a minor offence escalated his crime to murder because he had been sent away. The elders of the community despaired because they felt they could more effectively handle these cases themselves. It would be better, they argued, that the offender be made to repay his debt to the community by some other means, which would enable him to continue to maintain his obligations to his family, while doing so.

The most interesting aspect of this story is its universality. The general theme of community-participation and community-control has already aroused considerable interest and experimentation in North America, Britain, Europe, Japan, New Zealand and Australia in the area of community-policing, Neighbourhood Watch and juvenile reform. The major element of success of offender rehabilitation increasingly seems to centre upon the availability of community-based programs. Those which come most immediately to mind include alcohol rehabilitation, work release schemes, vocational training and apprenticeships. Less familiar - but ones which have won some interest recently in the Northern Territory - are judicial and correctional diversionary schemes currently gaining favour overseas.

A survey of Aboriginal crime clearly indicates that there exists a range of minor offences which could easily be handled informally. The largest majority of Aboriginal offences are against 'good-order' - drunkenness, disorderly conduct, petty assault, abusive language, resisting arrest, minor offences against property - those which largely fall into the 'nuisance crime' category.

The Tribal Court system run by Indian communities under the Bureau of Indian Affairs in the United States, Village Courts in Papua New Guinea, the Maori Community Court scheme in New Zealand, and the Community Court experiments in the Northern Territory and Queensland, have utilised community service orders as a means of extracting restitution and compensation from minor offenders.

Cases handled by these community-based institutions cover most crime with the exception of murder, drug offences, rape and major assault. Where they are functioning they do so under the umbrella of legislation and with the blessings and often enthusiastic co-operation of the local police and formal Court.

The concept, as I said, is not unique to indigenous communities. It has been welcomed, with some keenness in westernised countries in the rehabilitation of juvenile offenders. (But there is no reason why it cannot be more broadly applied to first and minor offenders irrespective of age.) In 1983 the Chicago Law Enforcement Group released a manual for those interested in organising a community-based restitution program for delinquent youth (Reed and O'Brien Stevens, Holding Youth Accountable , 1983) which provides some very sound guidelines in this area. Community-based restitution programs have the potential to revamp and ease the pressure on courts and corrections, just as community-policing and Neighbourhood Watch revamped and eased the pressure on our police forces. It is certainly worthy of our attention.

On his return from a study tour of North American diversionary programs, the Northern Territory Minister for Community Services,

Mr Coulter, announced last Wednesday (6 November 1985) that his government was to consider a range of community-controlled orders and correctional options as a means of reducing the number of prisoners held in Northern Territory jails (Canberra Times 7 November 1985).

I will be discussing these programs tomorrow in more detail with the Cabinet Committee Aboriginal Task Force. But for those who are interested, I would be happy to draw your attention to some reading material on these community-based program alternatives and I expect that much of my own work over the next two or three years at the Institute will explore, in more detail, the practical issues and possible application of such programs for Aboriginal people.

I wish to make a final point that, although you may feel yourselves to be at the end of the criminal justice process - in the case of recidivism you could well see yourselves at its beginning. For short, or longer periods, you have these people in your care and you have the opportunity to use this time for some positive purpose. You may detoxify them, you may provide them with some skill, you may help to link them into newly established support programs outside. But the crux of your success in interrupting the cycle of recidivism, from your end, will ultimately not depend upon these programs themselves. It will depend upon your success in forging some trust with these individuals while they are in your care. You might make it your aim to identify key Aboriginal individuals - those perhaps, particularly 'cheeky' ones who are looked up to by other Aboriginal prisoners and have the potential to lead. Such potential leaders could be involved in the running of these programs for their people. They could be asked to offer their own ideas and initiatives. When they leave, they could be asked to continue their involvement in these programs at the community level. To work at the receiving end of ex-prisoners.

Thank you for inviting me here today. I welcome the opportunity to share these ideas with you and I am sure we will have more opportunities to discuss them further.

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