

**ABORIGINAL
JUVENILES
IN CUSTODY —
NEW
COMMUNITY
AND
INSTITUTIONAL
APPROACHES**

**Dr. Elizabeth Sommerlad,
Centre for Continuing
Education,
Australian National
University,
Canberra.**

the disproportionate number . . .

The disproportionate number of Aboriginal juveniles in state corrective institutions is a matter of serious concern to Aboriginals, policy-makers and administrators alike. Although it is difficult to obtain accurate statistical information in this area, and hence to fully comprehend the nature and complexity of the problem, what data we do have suggest that juvenile delinquency and ensuing institutionalisation is reaching crisis proportions. It would seem that in

comparison with the non-Aboriginal population, Aboriginal juveniles are more likely to be charged with an offence, to be convicted, and to be committed to a corrective institution. Moreover, recidivism rates for Aboriginal juveniles are significantly higher than for non-Aboriginals and substantial numbers do not have homes to go to on release and are transferred to institutions or permanent foster care as wards of the State.

Why?

Why are so many Aboriginal juveniles in corrective institutions? Several factors, many of them interdependent, contribute to the high rate of institutionalisation among Aboriginal juvenile offenders. These are demographic, socio-cultural, attitudinal and psychological in nature. The **age distribution** of the Aboriginal population is different from the population as a whole: 56.5% of Aboriginals are under 20 years of age compared with 37.5% of whites. The **social conditions** of Aboriginals single them out as the most disadvantaged group in Australia today. The National Population Inquiry noted of the Aboriginal people that they probably have

'the highest growthrate and the highest birth rate, the highest death rate, the worst health and housing, the lowest educational, occupational, economic, social

and legal status of any identifiable sector of the overall population in Australia'.

Aboriginals typically live in a **culture-conflict situation** and experience a high degree of stress. The demands of white society frequently conflict with the preferred life style of Aboriginal people. Education imposes alien values, services are based on white middle-class values, and funds to Aboriginal organizations are enmeshed in bureaucratic constraints requiring conformity to white procedures. In a recent judgement by Mr Justice Muirhead in the Supreme Court of the Northern Territory, he noted

'Furthermore, in dealing with Aboriginal children one must not over-look the tremendous social pressures they face. They are growing up in an environment of confusion. They see many of their people beset by the problems of alcohol, they sense conflict and dilemma when they

cultural traditions . . .

find the strict but community based cultural traditions of their people, their customs and philosophies set in competition with the more tempting short-term inducements of our society. In short, the young Aboriginal child is a child who requires tremendous care and attention, much thought, much consideration'.²

Aboriginal people also face an additional problem of racial prejudice and discrimination. Numerous studies have demonstrated that whites hold unfavourable attitudes towards Aboriginals.³ Prejudice also exists at an institutional level: Aboriginals are less likely than non-Aboriginals to receive unemployment and sickness benefits, and are more likely to be picked up by the police. In his report on Poverty and the Law, Sackville noted that

'available information suggests that the legal system, far from reducing injustice, has magnified it, highlighting the powerlessness of Aboriginals in Australian society'.⁴

Large Numbers

Thus large numbers of Aboriginals feel alienated and powerless and believe that there is little they can do to reduce their disadvantaged status in society. Dispossessed of their land, alcoholism has become a refuge and many Aboriginal youngsters see no future for themselves other than that of their parents: unemployment, dependency on social welfare, inadequate housing, drunkenness and living from day to day.

Against this context, a group of forty-two individuals representing all States and Territories met in Sydney in June 1977, at the invitation of the Commonwealth Minister for Aboriginal Affairs, to discuss problems relating to institutional care for Aboriginal juveniles. The group included key State officials involved in the planning and implementation of programs for Aboriginal juveniles in correctional institutions; Aboriginals working in such areas as probation and parole, prisoners' aid activities, care and welfare; educators responsible for training both Aboriginals and non-Aboriginals to work in this field; and individuals with an involvement in educational, sociological and recreational aspects of Aboriginal development programs.⁵

Symposium

While the focus of the Symposium was on institutional care and ways of modifying existing programs and practices so that they are more responsive to the special needs and interests of Aboriginal juveniles, there was also recognition that this implies essentially a short-term approach. Any long-term strategy must be primarily oriented towards the development of alternatives to institutional care whether through preventive programs, decriminalisation of offences, intervention in the legal system, or community-based punishment and rehabilitation programs.

During the discussions of problems faced by institutions in dealing with Aboriginal juveniles, and of the various programs designed to respond to the special needs of this group, several important issues emerged. Specific recommendations relating to these

issues were endorsed by the Symposium and provide policy guidelines for desirable action in this area. They reflect the considered judgement of what participants felt was in the best interests of Aboriginal juveniles, not some ideal, political or theoretical solution.

This paper highlights some of the emergent themes and issues, including where relevant some of the key recommendations which represent a starting point for further debate and action.

THE NATURE OF ABORIGINAL JUVENILE DELINQUENCY

The particular programs and emphases developed by state welfare Departments in response to the significantly high proportion of Aboriginal juveniles in institutional care largely reflect their approach to the nature of Aboriginal juvenile delinquency and their adoption of a preventive (long-term) orientation, or a curative, crisis intervention (short-term) orientation.

One view of juvenile delinquency, expressed by some participants, is that the problem essentially resides in the **individual**. Programs are therefore oriented towards the individual offender, and are designed to rehabilitate him, to change his attitudes, to instil in him suitable work habits and skills, and to channel his social behaviour into desirable patterns. Implicit in this remedial approach is the view that the behaviour of the Aboriginal juvenile is **deviant** and that programs should help the individual adjust better to the society in which he lives.

in the individual . . .

Other approaches to juvenile delinquency imply that the problem is as much a **societal** as an individual one. Thus juvenile delinquency is seen to reside partly in the attitudes of society, as expressed by the law, which labels some acts as "offences". One way of decreasing the level of juvenile delinquency is therefore to broaden the ability of society to tolerate divergent behaviour and to redefine many behaviours currently labelled "delinquent", as **behavioural differences** rather than offences. A first step towards changing society's attitudes is to change the criminal code and decriminalise certain offences now punishable by law. The Symposium recommended:

- That legislation and procedures relating to juvenile offences be reviewed with a view to reducing the number of acts which are classified as offences and to reducing the number of juveniles under formal Court orders.

The view of juvenile delinquency as **structurally embedded in the inequalities of society** was also forcefully expressed. The interrelationships between juvenile delinquency and dispossession of land, social disintegration, high unemployment, lack of recreational facilities, inadequate housing, poor health, discrimination and other factors which distinguish Aboriginals as the most disadvantaged group in society, were underlined. While initiatives might be taken to find alternatives to institutional care, to bring about legislative changes, or to decriminalise juvenile delinquency and replace it with a welfare system, these were seen as essentially short-term curative approaches which would not significantly contribute

to a reduction of the present high levels of juvenile delinquency or other forms of deviant social behaviour which are also symptomatic of the underlying inequalities in our society.

Long Term

This view was implied in a paper prepared by the Department of Youth and Community Services in New South Wales:

'Long-term, we must work vigorously towards fulfilling the goals of rehousing, better education, remedial health programs, creating job opportunities, all of which will steadily increase the self-esteem of Aboriginals and improve their image and acceptance in the white community . . . We cannot hope for any reduction in the over-representation of Aboriginals in the Children's Courts, Residential Care and Training schools until such time as we narrow the gap between the living standards and acceptancy of the white population and the Aboriginals'.⁶

A similar analysis of the cultural context of Aboriginal juvenile delinquency and recognition of the limitations inherent in the case study approach, led to the introduction of the community development program in Roebourne, W.A.⁷ Those responsible for the project concluded that the extreme high rate of Aboriginal juvenile delinquency was unlikely to be reduced unless a range of realistic social, educational, occupational, cultural and recreational opportunities were offered to Aboriginals in a meaningful way. Through the development of various self-help programs based on Aboriginal

social groupings, and the establishment of a mechanism for encouraging dialogue and co-operation between whites and blacks in the town, a number of significant socio-economic changes have occurred in Roebourne which have already contributed to a significant decrease in the level of juvenile offending.

ALTERNATIVES TO INSTITUTIONALISATION

In the Supreme Court Judgement referred to earlier, Mr Justice Muirhead stated:

"The thrust of modern legislation and thinking concerning the courts and young people — and I am now talking of the very young — is that rehabilitation is the keynote".

Administrators and Aboriginals alike now recognise the destructive effects on children of long periods of institutionalisation and the failure of institutional environments to provide for normal developmental, educational and emotional processes. Incarceration in an institutional setting, even for short periods, is particularly destructive to tribal Aboriginal youth whose values, cultural background and community life-style differ so significantly from life in an institution.

Discontinuity

Discontinuity between home and institutional life may have greatest impact on either the individual himself, or on the community from which he comes. Some tribal and non-tribal Aboriginal juveniles who are committed to training centres or institutions are traumatised by the experience — they feel alienated, insecure, and are withdrawn and uncommunicative without the support

rehabilitation is the keynote . . .

of other Aboriginals. For others, however, institutionalisation simply reinforces feelings of alienation from the home Aboriginal community: colour T.V., regular films, sporting and recreational activities, beds and regular meals, open a new way of life. By providing tribal Aboriginals with such experiences and inculcating them with the values of the dominant society, institutions are alienating tribal Aboriginals from their cultural heritage and contributing to the further disintegration of Aboriginal society, rather than rehabilitating individuals for life back in their home communities. Committal to white institutions absolves the community from taking responsibility for youth and undermines the authority of the elders.

Symposium

The Symposium expressed the view that emphasis should continue to be placed on finding alternatives to institutional care.

Further, that Aboriginal juveniles from tribal and tradition oriented communities requiring corrective care and treatment, should not be physically separated from their communities for this purpose.

The Aboriginal participants at the Symposium presented a separate report in which they underlined the adverse effects of short-term incarceration and called for the development of alternatives to institutional care:

“We feel that Court procedures, institutional processing, guilt complexes and terror instilled in children by their being removed from the family entirely disrupts whatever family/social/community security that child may

have developed, and that such processing often results in the first developments of true delinquency syndromes.

We must bear in mind that no rehabilitative or remedial measures can ever be effected on a short-term basis. We must recognise that in the short-term process children are damaged most. We recommend that invariably all cases that could be considered as misdemeanours or the continual committing of misdemeanours or cases of neglect be treated outside the Courts. We recommend that such treatment or handling of misdemeanour situations can be handled best by:

i) Reporting of the original charge of misdemeanour or neglect to the appropriate authority;

ii) consulting with Aboriginal Youth Counsellor while still in the parental home environment;

iii) placement of the child

a) on bond in the care of his natural parents;

b) with removal of child from parental home to care and control of immediate blood relative or fostering family within his community; or

c) in Aboriginal Youth Development Centre.”

SPECIAL NEEDS AND INTERESTS OF ABORIGINAL JUVENILES

Aboriginal juveniles are not always recognized as having special needs and interests which distinguish them from other disad-

vantaged groups in institutions. There is a view that all children should be treated equally, and to single out one group for special consideration is tantamount to discrimination. The Symposium, however, recommended:

- That State Governments providing institutional care should recognise the special interests and needs of Aboriginal children.

The needs and interests of Aboriginal juveniles fall into three different categories:

i) Those which they share in common with other juveniles in corrective care and which can be met through normal programs e.g., opportunities for development of work skills and habits, recreational activities, acquisition of social skills, increasing horizons;

ii) those shared needs and interests which require **special** provision if they are to be met e.g., the need for affection and emotional support from own kin, contact with natural parents;

iii) those **special** needs and interests which are distinctive to Aboriginal juveniles and arise from their Aboriginal identity and cultural background.

The balance between these three differs for each individual, depending on his family and home background and life experiences. For tribal Aboriginals, the distinctive needs will be uppermost due to their very different cultural heritage and life-style and their limited contact with the dominant society.

needs of aboriginal children . . .

Non-Tribal

For non-tribal Aboriginals, the special needs and interests may arise more from their different socialisation patterns within an extended family, factors associated with the severely disadvantaged position of Aboriginals in society, and the racism to which they are exposed.

The bond of kinship is a critical psychological factor and is central to any rehabilitative program. Many of the special needs and interests of Aboriginal juveniles defy labelling and are not readily met through specific programs. They are more 'spiritual' in nature, a sense of belonging, and support from someone who has experienced similar feelings of worthlessness, powerlessness, and alienation from the dominant society.

Acceptance

Acceptance of the view that Aboriginal juveniles have special needs and interests which corrective care institutions for offenders in the dominant society cannot readily meet through their usual programs, raises the fundamental question of whether there should be **separate** institutions for Aboriginal juveniles. While no firm conclusions were reached on this issue, it should be recognised that, to an increasing extent, de facto separatism is already occurring, with the changing orientation to community rather than institutional care. The Aboriginal Children's Home at Brewarrina (New South Wales) and a newly established hostel for Aboriginal of-

fenders in Victoria are examples of separatist institutions.

Separate Institutions

If separate institutions or homes are run by Aboriginals for Aboriginal juveniles, should they conform to any 'standards', and if so, **whose** standards? The State Welfare Departments lay down standards to which institutions must conform. Aboriginal people, however, maintain that such standards are usually a reflection of white middle-class society and do not reflect the values characteristic of the Aboriginal community, or the qualities in inter-personal relationships which they stress. Although this issue was not resolved at the Symposium, all participants acknowledged the conflict between Aboriginality and white bureaucratic conditions and responsibility.

Several States

Although several States have initiated special programs for Aboriginal juveniles, most State Welfare Departments have no special policies for Aboriginal juveniles in corrective care. The lack of such a policy was seen by some participants as desirable in so far as it allowed flexibility, and by others as undesirable in that it indicated that little thought had been given to the special needs and interests of Aboriginals or to the articulation of objectives for special programs.

A recommendation was made:

- That government welfare authorities be urged to formulate explicit policy objectives for Aboriginal juveniles in corrective care, and that these policies be formulated in consultation with the Aboriginal community.

INVOLVEMENT OF ABORIGINALS

Aboriginal involvement is essential if programs for Aboriginals are to be effective. While all participants endorsed this view, there were unresolved, and perhaps unacknowledged, differences as to what 'involvement' really means. For some it implies consultation, for others it also necessitates devolution of responsibility and real authority.

Discussions centred mainly on three desirable areas of Aboriginal involvement:

- i) appointment of Aboriginals to staff professional positions within State departments of social/community welfare.

It also recommended that Aboriginals should be recruited and trained to work in residential institutions caring for Aboriginal juveniles. Aboriginals should also be appointed to field positions so as to maintain contact with Aboriginal families and organisations, and to develop support structures within the Aboriginal community.

- ii) liaison of Police, Courts, Children's Services and Social Welfare Departments with Aboriginal organisations;

endorsed this view . . .

The Symposium recommended that procedures be set up for effective liaison between Aboriginal Legal Services, Police, Courts and Children's Services Departments.

iii) establishment of Aboriginal Consultative Committees for the various institutions.

A recommendation was made:

- That child care institutions have an Aboriginal Consultative Committee to advise on:
 - a) contact with community;
 - b) the possibility of placement in foster care on discharge;
 - c) visiting children in institutions;
 - d) programs.

These three areas of Aboriginal involvement imply a co-operative relationship between Aboriginal organisations and Government bodies currently holding responsibility in this field. They are based on **consultation** at different levels and recognise the value of Aboriginal involvement particularly in the programming and implementation stages. There is a real danger, however, that Aboriginal involvement becomes nothing more than consultation, with real authority and responsibility continuing to rest with the white bureaucracy.

Discussions

The discussions, for the most part, reflected a recognition on the part of whites that despite their professional qualifications and competencies, they were unable to meet many of the needs of Aboriginal juveniles and that Aboriginal involvement was a

crucial adjunct to their professional services. There was, however, a reluctance to admit the central relevance and importance of Aboriginal expertise and experience and that these qualifications might better equip Aboriginal organisations to take full responsibility for the care and treatment of Aboriginal juveniles.

Recommended

The desire of Aboriginals to assume a meaningful level of responsibility for the care and treatment of Aboriginal juveniles is reflected in the Aboriginal group report presented to the Symposium. They are not simply asking to be **consulted**, or to be involved in the design and implementation of programs. They want authority to formulate policies and training programs because they believe **they** can best meet the needs of Aboriginal juveniles.

To this end, they recommended that a new structure be set up at both Federal and State levels, comprising:

1. A National Youth and Community Development Committee to formulate policies and training programs in areas of employment, juvenile delinquency, after care services, and other areas of social need such as rehabilitation associated with specific Aboriginal needs and problems.

2. Aboriginal Youth Development Committees to advise on and direct effective co-ordination of State programs and their approach in these areas of Aboriginal needs.

3. Aboriginal Youth Development Centres that will give continuity in retraining Aboriginals and aiding their development of new skills.

4. Aboriginal Youth Development Counsellors to act as bridging mechanisms between Aboriginal communities, the child, and the institutions in those State and Federal Departments involved in child care services.

RECRUITMENT AND TRAINING OF INSTITUTIONAL STAFF

The key role that Aboriginal staff can play in institutional care was recognised by the Symposium which recommended:

- That State Governments, in recruiting and training institutional workers, should recognise the importance of Aboriginality to the achievement of effectiveness in

institutional programmes for Aboriginal juveniles.

It is important that the Aboriginal community should be involved in the selection of Aboriginal staff since such individuals play a crucial liaison role between the Aboriginal people and the bureaucracy and their success is largely dependent on Aboriginal community support. Aboriginal people at the Symposium stressed the necessity of recruiting to para-professionals roles Aboriginals who are closely involved with, and have the full support of, the Aboriginal community. From their perspective,

Formal qualifications

formal qualifications are less important than personal qualities and Aboriginal support. The Aboriginal group at the Symposium, in their report, recommended:

- That emphasis must be placed on relevant Aboriginality and communicative skills of the persons selected, rather than on academic criteria.

It is important that those persons working in institutions where there are Aboriginal juveniles, should have an opportunity to understand the special needs and interests of Aboriginal children and develop relevant skills for this aspect of their work. While training of whites is not considered to be a substitute for employing Aboriginals within institutions, it is nonetheless important that all staff should be able to recognise and respond to the needs of Aboriginal juveniles in care.

A recommendation was made:

- That training courses for institutional staff include:
 - a) instruction in the particular handicaps of Aboriginals;
 - b) instruction in the problems of Aboriginals with physical and mental handicaps.

The Aboriginal group at the Symposium made an additional statement about selection and training of white staff.

“Requirement for training of white staff in areas where whites are to work with Aboriginals: to be carefully selected, emphasis being on their temperament, sen-

sitivity toward Aboriginality and a willingness to learn from them. Workshops and field trips to be organised for on the job training. Particular emphasis must be placed on the need for all people involved in the field of Aboriginal affairs, which will directly affect Aboriginal people, to undergo training in Aboriginal studies and this should be mandatory in any Departments and institutions dealing with a high proportion of Aboriginal people. Resource materials by Aboriginals for Aboriginals should be developed by a national resource body to effect this type of required training. We feel that this understanding should also be engendered within the Department of Aboriginal Affairs by its staff undergoing similar training.”

Underlying discussions throughout the Symposium was the recognition that Aboriginal people have a key role to play in any program concerned with the Aboriginal community. Recommendations emerging from the Symposium highlight the responsibility they intend to assume in the future and also reflect a recognition by most whites of the contribution they are already making in this area.

It is clear that many initiatives have already been taken by Aboriginal organizations in responding to the needs of Aboriginal families in crisis situations and of Aboriginal juveniles who have been committed to care. Perhaps the most significant of these is the range of services provided by the recently established Victorian Aboriginal Child Care Agency.

Their experience clearly demonstrates that, given the opportunity to assume responsibility, Aboriginal organizations can work effectively to meet the needs of the Aboriginal community and can achieve results which services provided by the State instrumentalities for the total community have been unable to achieve. The challenge now rests with the white bureaucrats to relinquish some of their powers in this area and to make available resources to those individuals and groups who are endeavouring to mobilise the community to meet the pressing needs of its own members.

References

1. Borrie, W.D. **Population and Australia**. First Report of the National Population Inquiry, Canberra: AGPS 1975.
2. Extract from Mr Justice Muirhead's judgement in the Supreme Court of the Northern Territory 1977, in an appeal against a sentence imposed by a Stipendiary Magistrate on a young Aboriginal offender.
3. e.g. Stevens, F.S. (ed) **Racism, the Australian Experience**, vol 2. Sydney: Australia and New Zealand Book Co. 1972.
4. Sackville, R. **Law and poverty in Australia**. Commission of Inquiry into Poverty, Canberra: AGPS 1975.
5. For a full report of the Symposium, see Sommerlad, E. **Aboriginal juveniles in custody**, Canberra: Centre for Continuing Education, Australian National University 1977.
6. Department of Youth and Community Services (New South Wales) Discussion paper on the Care and Treatment of Aboriginal juvenile offenders.
7. Donovan F., and Bodeker G., **A submission for a Roebourne Community Development and Juvenile Treatment Programme**, Perth: Department of Community Welfare 1977.