

A series of papers designed to highlight current initiatives in Indigenous Justice

The Yiriman Project in the West Kimberley: An example of Justice Reinvestment?

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Current Initiatives Paper 5, July 2017

Introduction

The overrepresentation of Indigenous people in Australian jails continues to rise annually, despite increased resourcing and expenditure at all levels of government. In recent years, the State of Western Australia (WA) has been performing worse than any other jurisdiction. More than 40 per cent of the 5,000 people in WA prisons are Indigenous and one in 20 adult Aboriginal men are in jail (ABC 2014).

In the Kimberley, facilities such as the new prison in Derby have designed programs to support offenders to remain outside the system once released. The long-term impact of this type of facility is yet to be evaluated. These strategies are part of shifts in corrective services which attempt to address the existing high rates of recidivism amongst Aboriginal prisoners. The Australian Bureau of Statistics (ABS) in 2015 identified that just over three out of four Aboriginal and Torres Strait Islander prisoners nationally had previously been imprisoned or on remand, as opposed to one in two non-Indigenous prisoners (ABS 2015). Additionally, Aboriginal young people make up just over 6 per cent of WA's 10 to 17 year

olds, but account for more than three quarters of those in juvenile detention. Young people from the Kimberley region in the north-west of the state have to be transported in excess of 2500km to reach the state's youth detention facility, Banksia Hill Detention Centre. This arrangement is extremely costly to taxpayers and traumatic for the individuals involved and their families. There is no evidence of this kind of detention having long-term remedial impacts. It is in this context that the following discussion considers the idea of Justice Reinvestment, its potential in the region and the role that the Yiriman project might play in delivering these kinds of outcomes.

The rationale behind Justice Reinvestment is that of redirecting the focus of government investment and resources away from prisons and the criminal justice system, into programs that impact upon the underlying causes of crime. This includes activities supporting young people to move away from or not engage in illegal activities that might result in detention or incarceration. These investments are seen to lead to better social outcomes, which are less expensive in the long term.

Unlike many general crime prevention measures, Justice Reinvestment models tend to include strong data and evaluation frameworks, with a focus on identifying and reinvesting the specific savings achieved from preventing crime or reducing incarceration of key groups.

Another characteristic of Justice Reinvestment is that it requires collaboration and partnerships between various levels of government, and between these government agencies and the communities, if impacts are to be made and sustained. According to Mick Gooda, the former Aboriginal and Torres Strait Islander Social Justice Commissioner, 'The community has to be involved and committed to not only taking some ownership of the problem but also some ownership of the solutions' (Legal and Constitutional Affairs References Committee (LCARC) 2013: 44).

The various Justice Reinvestment models developed in the United States of America (USA), the United Kingdom, New Zealand and Australia are examined by Schwartz et al. in IJC Research Brief 21, published in 2017.

Young Aboriginal people of the Kimberley and the extent of their contact with the criminal justice system

Available data indicates that Aboriginal young people are 53 times more likely to be in detention in Western Australia than non-Aboriginal people. This rate was more than double the national figures for the same age cohort in 2014 (see Amnesty International 2015: 5; Australian Institute of Health and Welfare 2014). Very little information is in the public domain about young Aboriginal people who come into contact with Corrective Services in Western Australia, including where they are from (urban, regional or remote), levels of drug and alcohol use when committing offences and any other social issues that might be relevant, such as whether or not there is evidence of Foetal Alcohol Spectrum Disorder (FASD).

Recent studies in the Kimberley suggest as many as 25 percent of young Aboriginal people exhibit some characteristics of FASD (Fitzpatrick et al. 2015). The implications of this level of impairment amongst Aboriginal youth in the Kimberley, particularly in the context of this discussion, are major and are only just beginning to be addressed by Western Australia government agencies responsible for youth contact with the criminal justice system.

Studies from the USA and Canada suggest that young people with FASD are much more likely to come into contact with the criminal justice system (Cox et al. 2008; Streissguth et al. 2004). People with FASD can be highly suggestible and

therefore not make reliable witnesses. Those more extreme cases of FASD arguably have diminished responsibility for their actions.

There is also little information available about the nature of offences that young Aboriginal people are charged with in the Kimberley, or how this varies across the region. This kind of information is crucial in considering the best way to decrease the high rates of contact this cohort is currently having with the criminal justice system. For example, if the majority of young male offenders are charged with minor driving offences, then programs might be best designed along the lines of others in Australia such as the Anangu Pitjantjatjara Yankunytjatjara Lands Mutukar Project (Andrews 2011; Anthony & Blagg 2012). The lack of data released by authorities and the impact of this on potential design of interventions was commented on in a number of submissions to the Senate Inquiry into the value of Justice Reinvestment in 2013 (LCARC 2013: 94-98).

About Yiriman

The Yiriman Project commenced in 2000, and was originally based in Jarlmadangah Burru, a small remote community in the west Kimberley that is 120km from Derby. The primary goal was to support young Aboriginal people from remote communities connected culturally and linguistically within Nyikina, Mangala, Walmajarri and Karajarri traditional lands and language groups.

Supported by the Kimberley Aboriginal Law and Culture Centre (KALACC) based in Fitzroy Crossing, cultural leaders from these four language groups were determined to provide a better life

for their young people, by supporting them with the skills and resilience needed to cope with contemporary society, while imparting in them a strength to move away from activities of self-harm and substance abuse (Ljubic 2002). A camel trek of ten days into the remote Mowla Bluff community, and the nearby cultural site of Yiriman that the project took its name from, provided one of the first experiences for participants.

By giving primacy to the role of Cultural Elders in knowledge transfer between generations, Yiriman provided an avenue for young people to reconnect with country, culture and family. Yiriman has changed and evolved over the years, and has incorporated a range of approaches to address the cultural drift identified by community Elders (Johnson 2005: 5).

Language groups and Cultural Elders across the Kimberley have expressed a desire to have similar projects 'on country', with their young people. The geographic and cultural focus of the project however remains on the original four language groups, despite repeated calls for the project to be rolled out across the region.

Initially established to support young people aged 15-25 years, Yiriman focuses on the age bracket that straddles the juvenile/adult divide. While these people remain the focus, there are instances where younger or older people outside this age group may engage as participants with the project. The program was also developed to include previous participants as mentors on the program.

There are a number of key elements that the program incorporates, as reported by Yiriman at the Aboriginal and Torres Strait Islander Suicide Prevention Conference presentation in Alice Springs, 2016:

- back to country trips to visit the ‘old people’ (ancestors who ‘sit’ on that country);
- bringing together young people with Elders, middle-aged people and others from outside community;
- every day, on country, young people and Elders are involved in deep learning and transmission of culture, skin (respect), language, old and new stories, ‘sweat’ on country and making artifacts;
- giving young people an experience away from ‘humbag’, alcohol, drugs and self-harm;
- taking care of country and getting taken care of by country; and
- giving young people opportunities for being on and with country, culture and law.

Funding for Yiriman

Funded through the former Alcohol Education Rehabilitation Foundation, the project commenced with one project officer and a small amount of funding to undertake ‘on country’ activities.

Funding is secured for activities, using government and philanthropic multi-year and project-based capital. While some ongoing monies have been obtained through justice-related programs such as the Commonwealth Department of the Attorney General Proceeds of Crime Fund, these have not contributed to the bulk of the finance over the project’s life. Philanthropic funds have provided most of the funding for Yiriman; more recently substantial investment has come from national suicide prevention programs.

Seventeen years later, more than 150 on country trips have been undertaken and more than 1500 young people have been supported and engaged (Palmer 2013a). The project has been praised by the Productivity Commission as a ‘project that works’ in their 2014 Overcoming Indigenous Disadvantage Report (Productivity Commission 2014), it was a winner in the 2012 Indigenous Governance Awards, and was also cited in the March 2015 National Mental Health Commission Report (National Mental Health Commission Secretariat 2014) as an exemplar of national best practice for working with Aboriginal youths at risk.

Most recently, in November 2016, Yiriman was lauded again as best practice within two separate reports relating to Aboriginal suicide: the Aboriginal and Torres Strait Islander Suicide Prevention Evaluation Project (ATSISPEP) Final Report and the Report of the Inquiry into Aboriginal Youth Suicide in Remote Areas (Western Australian Police Community Education and Health Crime Prevention Fund 2016). Yiriman was mentioned in the latter 14 times and referenced in countless submissions to the Inquiry. The 2016 Education and Health Standing Committee report noted that it had similarly recommended in 2008 that Yiriman be supported and used as a model across the Kimberley and more widely (Education Health Standing Committee 2016: 140).

An example of Justice Reinvestment?

While Justice Reinvestment is a flexible concept that differs both conceptually and methodologically in the various jurisdictions in which it has been developed (Brown et al. 2017), identifying quantified outcomes is a key feature of most models, including identifying

specific costing savings achieved from implementing crime prevention measures or reducing incarceration.

Arguably, the concept of Justice Reinvestment carries with it cultural assumptions which relate to the idea that the indicators that matter, in a discussion around keeping Aboriginal people away from contact with the criminal justice system, are quantifiable. A recent national project investigating the concept and applicability of a Justice Reinvestment model in an Australian context concluded that such a model might be limited in its suitability for remote contexts by ‘structural assumptions or practices’ (LCARC 2013: 11-12).

While some indicators can be quantified, some of the most critical factors – for example, an individual’s cultural connectedness – are fundamentally qualitative. The propensity for a model such as Justice Reinvestment to under-value something like ‘cultural connectedness’ might limit the model’s potency in remote Aboriginal contexts. This issue has been identified by Schwartz et al. within this publication series, noting that ‘success’ is often taken to mean whatever is quantifiable as opposed to measures that are broadly defined and meaningful to the community (see Indigenous Justice Clearinghouse Research Brief 21. Justice Reinvestment. Schwartz, Brown & Cunneen 2017).

This issue is not only relevant to definitions and evaluations of Justice Reinvestment, but to justice programs in remote Indigenous contexts more generally. In May 2016, KALACC responded to changes in the provision of youth justice services to the region by arguing that WA’s Department of Corrective Services should invest more in community ownership of programs:

...while government viewed justice reform in terms of increasing the quantum of 'community based' services in the region, Aboriginal leadership increasingly spoke of the need for investment in 'community owned' services, managed and run by Indigenous people on the basis of what are called 'Aboriginal terms of reference.' The current terms of reference lend themselves to community-based programs but they don't lend themselves to community-owned Programs (Blagg 2012).

This dilemma is linked with the requirement of government to justify expenditure through evidentiary-based evaluations. It is something that has been requested often of Yiriman, and provided through qualitative rather than quantitative review.

Where could savings be made, and measured

In a conventional model of Justice Reinvestment, evidence is provided of the financial savings to be made by expenditure being shifted 'upstream', and investments made in community such that criminal and anti-social behaviours are diminished. The discussion below attempts to provide examples of how such savings might be associated with the Yiriman Project.

Data provided to the KALACC Coordinator in March 2015, although limited to young people (>18 only), showed that between July 2013 and June 2014, there were 709 lodgements: that is, a single defendant had one or more charges with the Children's Court across the Kimberley. Regional population data from the 2011 Census indicates that this is equivalent to around 1 in 3 Aboriginal people aged between ten and nineteen years of age.

The majority of these 709 matters were referred to Juvenile Justice Teams or community-based orders. Twenty-five of these cases were sentenced to juvenile detention; in other words, 25 juveniles were sent to Banksia Hill Juvenile Detention Centre in Perth.

In 2015, the Commonwealth's Report of Government Services reported that it was costing the WA Department of Corrective Services more than \$300,000 per head per year to detain juveniles. This figure does not account for costs associated with courts, administration, magistrates or policing resources, and transportation of the offenders from a remote location some 2000km away (Amnesty International Report 2013-2014). In 2009, the Australian Institute of Criminology estimated that policing accounted for 75 percent of the costs associated with the criminal justice system, administration 5 percent and corrections 25 percent.

Even if these other costs are left aside, and the higher overheads with corrective services and police in the Kimberley are ignored, it would cost an estimated \$7.5 million to detain these 25 more serious cases per year. If all the costs are included, the total could exceed \$30 million per annum for these 25 juveniles alone. While data is not available at present regarding average sentence length, it is likely that this would provide further justification for Justice Reinvestment alternatives – providing economic and social savings whilst supporting individuals to remain on country within familial contexts.

Two examples are provided, contextualising the argument further. The first of these relates to a trip organised in 2010 for a group of eleven young people who were on a trajectory to be detained at Banksia Hill Detention Centre in Perth. These young people had been engaged in a crime spree in

and around Fitzroy Crossing, and each of them already had a considerable history of contact with police and the courts. The trip, to a remote part of the Great Sandy Desert called Jilji Bore, cost approximately \$80,000, and took place over 60 days. The cost is an approximation only, because funding from the Commonwealth Department of Prime Minister and Cabinet was only granted to cover the costs of Elders for their time, fuel and food.

Yiriman had to raise its own funds to pay for staff, and vehicles were also provided by KALACC. Eleven young people went on the trip, so in crude terms, the trip cost \$7,270 per head or \$121 per day per head. Should the additional costs to both Yiriman and KALACC be factored in, the saving to government would remain substantial.

According to a simple cost-benefit analysis, if this trip had kept one person out of Banksia Hill for one year, then it would have justified itself; indeed, monies saved from keeping one person out of detention would have been enough to pay for the entire trip with an extra five participants.

If it was demonstrated that five of the eleven participants had avoided juvenile detention, then this trip would have saved the WA government well over half a million dollars in detention costs alone. KALACC can confirm that none of the participants in the Jilji Bore trip had any contact with the Corrective Services Department in the year following the trips. However, it is difficult to attribute the changed behaviour with any certainty to the Jilji Bore trip. Anecdotal evidence from participants and their families also pointed to the trip as being transformative.

A second and less ambitious trip occurred in 2015. It involved three Camel Treks which took place on

Nyikina and Mangala country to the south of the Fitzroy River. The project was granted \$25,000 to be delivered in partnership with the Fitzroy Crossing police. The treks were on average five days each and included 34 young people and 13 Elders. That is \$147 per day per young person, and included the costs of bringing Elders, hiring camels, paying staff, resources and the like (Western Australian Community Crime Prevention Fund 2016). The budget also paid for meetings to plan the trips, and coordinate the involvement of local police, as well as project visits to communities and families to nominate Camel Trek participants.

The benefit of these trips might be measurable via factors such as better police relationships with the community resulting in more effective and more efficient policing. Better relationships also might result in less frequent police staff turnover, and a greater incidence of community reporting of crime. Savings made would be difficult to estimate, although improvement in the morale of the police posted in Fitzroy Crossing generally would suggest a positive outcome.

Challenges with measuring impact

There are other attributes of the Yiriman Project that make measuring its impact difficult. For example, apart from time spent planning and debriefing with Yiriman participants, most of the activities of a Yiriman trip occur 'out bush', that is, in an environment removed from the many, sometimes negative, influences of 'town' or 'community'. This allows project participants to experience a kind of 'cultural immersion' on country that is impossible in ordinary life. In the context of Justice Reinvestment it is the cultural connectedness with others which translates into attributes of self-respect, confidence and resilience that

may diminish the likelihood of 'getting into trouble with the law'. However, these kinds of personal shifts are difficult to measure in quantitative terms. They are nonetheless regularly observed by older family members.

Yiriman coordinators make some attempt to support and follow up project participants once they have returned to the community from bush trips, and facilitate participant access to community-based services. The impact of Yiriman trips may be limited by the absence of a whole-of-community strategy in which youth-related agencies work together, and where there is a concerted focus on individuals most at risk.

A fundamental premise of Justice Reinvestment, as well as other crime prevention programs, is that there is a measurable link between an individual's propensity to commit crime or engage in anti-social behavior, and elements in their social environment, upbringing and education. What is clear in the context of young Aboriginal people in the Kimberley is that causal factors are extremely complex and virtually universal across the region, posing a challenge for applicability of the Justice Reinvestment model as it is currently defined.

The strength that Yiriman has is the capacity of Elders to identify youth who would benefit from participating in a Yiriman trip. The primary 'data' that informs selection of participants, and assesses the value of Yiriman trips, is the knowledge held by the Elders who are familiar with the life trajectories of these individuals and who continue to support Yiriman so long as they are seeing positive results. Such an approach accords with the recommendation of the United Nations Permanent Forum on Indigenous Peoples around developing culturally relevant indicators

of wellbeing (2006 in Willis 2010), and also exemplifies proper 'community ownership'. The latter is considered crucial for Justice Reinvestment strategies to succeed (see Indigenous Justice Clearinghouse Research Brief 21. Justice Reinvestment. Schwartz, Brown & Cunneen 2017).

The complexities of Yiriman

There are a number of ways in which the Yiriman project does not 'fit' comfortably into contemporary government language, or policy directions, as illustrated above. This is recognised as both a strength of Yiriman and a weakness. It reflects the fact that Yiriman was, and remains, entirely answerable to Aboriginal Elders from four language groups.

The original concerns expressed by the Elders in the late 1990s have remained consistent, through changes of government at the State and Commonwealth level, in spite of the vagaries of Indigenous policy. The stability of intent and commitment by KALACC to sustain the programs of Yiriman, and to remain accountable to senior Aboriginal people's wishes in the first instance, give it an uncommon strength and a grassroots legitimacy which is lacking in many other programs devised and delivered by external agencies.

The mismatch between the holistic concern of the Elders for their young relatives, and the siloed approach of government agencies, has meant that Yiriman has had to solicit funding from a range of different sources. This is mirrored in changes to government priorities, and funding regimes. Yiriman has piloted different approaches to engaging with young people where particular opportunities have arisen.

In addressing the concerns of the Elders around the 'cultural drift' of young Aboriginal people, a raft of other commonly identified concerns are regularly addressed along the way. These have included:

- suicide rates;
- contact with the justice system;
- health and wellbeing;
- family relationships and conflict resolution;
- self-esteem and confidence;
- substance abuse; and
- rates of training/education.

In his 2013 evaluation, Palmer attempted to track some of these indicators in previous Yiriman project participants. While identifying the limitations of this endeavor as discussed above, Palmer (2013a; 2013b) more generally reminds us that there is plenty of evidence of the positive effects on Aboriginal people, young and old, spending time engaged in cultural activities on country:

There are immediate positive healthy effects of taking people away from poor diets, living conditions and town life that distracts communities from staying well. Traditional food, physical activities and spiritual practice are a major elixir to depression and despair. Learning language, bush knowledge and visiting the country of ancestor's assists in the campaign to minimise young people's involvement in the justice system (Palmer 2013b: 59).

As the Yiriman Project engages with young Aboriginal adults ranging in age from mid-teens to mid-20s, it straddles the mainstream cutoff for 'children'

or 'juveniles' at the age of 18. Yiriman engages with young people in this age category because mid-teens are the time when many of these young people first begin to show signs of getting into trouble, whether it be with the criminal justice system, with substance abuse, with staying away from school or engaging in family conflict. So again, Yiriman aligns itself with community concerns first in order to ensure it is impacting on the people who are identified as being most at risk.

The 2015 Camel Trek described above was less about diversion but rather aimed to improve relations between young people, Elders and the police. The project might have had outcomes which could be described as Justice Reinvestment, but with the current definition and quantifiable requirements, it might not. What is apparent however is that police officers having good relationships with Elders would have very real positive impacts on longer term community relationships (for example, families asking for help sooner in inter-family conflicts before they escalate into violence).

Additionally, this meets Indigenous prioritisation of Justice Reinvestment being community-controlled and incorporating wider community development objectives, therefore aligning with what is known about human rights-based practice in [Indigenous] service delivery (Aboriginal and Torres Strait Islander Social Justice Commissioner 2014: 108 as referenced by Schwartz et al. (2017).

Conclusion

In 2013/14, the WA Department of Corrective Services invested some \$7.83 million in 'prevention and diversion services' versus \$46.8 million in detention (Amnesty International 2015: 5). In the face of current expenditure of approximately \$350,000 per annum for a program that has the potential to save millions each year, the Yiriman Project could form the basis of a much broader regional Justice Reinvestment strategy – as opposed to an isolated project that has Justice Reinvestment-type outcomes. This would require a concerted and coordinated cross-agency focus at a regional level, with proper long term community engagement. As described in Schwartz et al. (2017) (see Indigenous Justice Clearinghouse Research Brief 21. Justice Reinvestment. Schwartz, Brown & Cunneen 2017), such an approach combined with a range of sentencing reforms might have the greatest chance of positive impacts.

Clearly the Yiriman project continues to have value, and positive impacts, in the view of senior Aboriginal people who maintain their support for it, and continue to send young people to participate in Yiriman trips. It also has value according to the many documented views of previous Yiriman participants, and their families:

Taking them boys out into the desert was a good thing. Make the boys pull up their socks. Helps them graduate to the next level of manhood. Helps them learn respect. Our son has since got a white card [a ticket for workers to beginning work in the building industry]. We support Yiriman 100 per cent. What they do at Yiriman is a very early days method. It is an

ancient method. It was done at the right time of the year when animals are at their peak. You can tell them old men down there [John and Harry] that we thank them (Palmer 2013a: 58).

Another participant's Uncle recounted:

He was in trouble with the police when he first went on that Yiriman trip. He is a good boy but he got in trouble for robbing. We were really worried for him so we sent him with Yiriman. He was a very good boy on that trip, helping the old people, getting involved, hunting and doing all them things. At the end of the trip he said he wanted to turn things around and follow his uncles into working as a Ranger. We sat him down and talked with him about this. There was a position coming up and we had to choose between him and another bloke who was older and more experienced. But we seen in him a future so he got the job. By his and his uncle's account, involvement in the Yiriman trips was a critical influence on his decision to take on work as a Ranger. He said, 'It was that first trip that made me stop and think ... that's when I decided that I was going to put my hand up for a Ranger's job ... Yiriman was the turning point (Palmer 2013a: 66).

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