



3rd National Indigenous Justice CEO Forum
21 – 22 November 2007
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Principal Legal Officer

The Aboriginal & Torres Strait Islander Legal Service (QLD South) Ltd

Background to our Organisation:

- We are a non-profit, public benevolent, community-based organisation – funded via the Commonwealth Attorney-General's Office.
- We are a leader in the delivery of quality legal services to Aboriginal and Torres Strait Islander people. We provide criminal, family and civil law assistance throughout Southern Queensland. We also have State-wide jurisdiction in the areas of:
 - Monitoring Indigenous Australian Deaths in Custody;
 - Indigenous Community Legal Education; and
 - Law Reform.
- At present, our staff consists of 35 lawyers, 26 field officers, 2 paralegals, 2 social workers, and 23 administration and finance staff, spread across 18 offices. Our management team look to our Board of Directors for policy decisions and guidance in all aspects of the provision of services. Our Board of Directors consists of 9 members, elected from Aboriginal and Torres Strait Islander communities by fellow members. A specialist director is also appointed to the Board to provide additional guidance in the areas of finance and corporate governance.

Our Role

- We have a deep respect for cultural protocols, and an inherent understanding and appreciation of the psychological and sociological problems and challenges that affect Aboriginal and Torres Strait Islander people and work efficiently within the justice system advocating the legal rights of our clients.
- We ensure that our clients receive culturally competent, high quality legal advice and representation when they come into contact with the justice system.
- We also seek to influence positive changes within the justice system that reflect a better understanding and appreciation of the diverse cultural backgrounds, problems and challenges that impact upon Aboriginal and Torres Strait Islanders. Focus upon solutions not problems.



Our Vision

- Leaders in the delivery of innovative, professional and culturally proficient legal services for Aboriginal and Torres Strait Islander people.

Our Mission

- Fostering collaborative partnerships with our communities, key government and non-government stakeholders to influence positive change and deliver innovative, professional and culturally proficient legal services for Aboriginal and Torres Strait Islander people within, or exposed to the justice system.

Our Values

- The traditional values of Care, Share and Respect form the foundation for our organisation and underpin our commitment to providing quality legal services.
 - We **Care** for the safety and psychological well-being of our clients, their families and communities. We **Share** a common understanding of our clients' needs and challenges and strive diligently to deliver quality legal services. We **Respect** the cultural diversity, values and beliefs of our clients and deliver confidential, professional, culturally proficient and community sensitive legal services to them.



Our Strategic Goals (2007 – 2010)

ATSILS will contribute to the achievement of outcomes across five strategic goals:

- Quality Legal Services
- Strong Leadership and Governance
- Highly skilled and Culturally Proficient Staff
- Strong and Productive Partnerships
- Continuous Improvement and Innovative Thinking



What should a responsive criminal justice system for Indigenous offenders look like?

- Firstly, the use of the word “offenders” is a misnomer. Many people who come into contact with the criminal justice system have not actually committed an offence.
- Absolutely imperative that culturally competent legal services be available. The utilization of Indigenous field officers is crucial in this regard. Such services also need to be provided on a 24 hour basis. E.g. after hours assistance during police records of interviews (otherwise problems with gratuitous concurrence etc).
- It is also very important for other key “players” to be cross-culturally aware.
 - Judges and Magistrates (e.g. Equal Treatment Bench book)
 - Police; DPP; Juries
 - Community Corrections; Corrective Service; Family Services
- Crucial for our system to reflect the basic principle that (with some exceptions) addressing recidivism via the rehabilitation of offenders is the key. Hand in glove with this principle is the need for the proper resourcing of rehabilitative options.



What Works?

- We should perhaps start by acknowledging some innovative steps in recent years:
 - Drug Court
 - Murri Court
 - Special Circumstances Court
 - Homelessness Court
 - Diversionary Options
 - Cautions
 - Youth Justice Conferences
 - Police Drug Diversion
 - QLD Indigenous Alcohol Diversion Program (Bail)
 - Court Diversions
 - Drug Diversion
 - Conferencing
 - Cautioning
 - Indigenous Justices of the Peace Training Program



.... What Works?

- Community Consultation and Involvement – an absolute key.

E.g. Indigenous (Murri) Courts - Elders.

- These courts provide a genuine opportunity to increase the *participation* of Indigenous communities in the pre-sentencing, sentencing and post-sentencing stages.
- They are also anything but a soft option.
 - Elders – shaming factor
 - Detailed scrutiny of underlying offending behaviour
 - Taking responsibly for actions



..... What Works?

- Genuine support – both whilst in custody and upon release.
 - Detainees need to be linked to Specialist Case Workers well prior to their release. This same worker to be very “hands’-on” immediately post release - then graduating to a longer-term mentor.

Note: currently 70% return to prison within 12 months.
- Mentoring Generally
 - e.g. post sentencing support – encouraging compliance with various programs; assisting with transport, etc.
- Recognizing that different communities will have different needs and require different solutions.



What Doesn't Work?

Tokenism:

Paying lip service to the recommendations of the Royal Commission into Aboriginal Deaths in Custody!

- Key Recommendations:

- Imprisonment as a last resort.

Rec. 92 "That governments ... should legislate to enforce the principle that imprisonment should only be used as a sanction of last resort".

- Arrest as a last resort.

Rec. 87 "All police services should adopt and apply the principle of arrest being the sanction of last resort ..".

- Policing responses.

Rec. 86 "The use of offensive language in circumstances of interventions initiated by the police should not normally be occasion for arrest or charge".

Note: the "recent" Palm Island tragedy. Hopefully a catalyst for change.

Paying lip service to the Police Operational Procedures Manual. E.g. notifications of clients in custody.



....What Doesn't Work?

Imprisonment/Detention

- Note a Queensland study which indicated that 86% of juvenile offenders end up in the adult criminal justice system - with 65% being sentenced to imprisonment.
- E.g. if I have 20 juveniles in the Brisbane Children's Court in any given week - I can expect 17 of them to migrate across to the adult jurisdiction and 13 of them to end up being sentenced to imprisonment!
- Recidivism rates indicate that incarceration is not an effective rehabilitative tool. Indeed, it is an abysmal failure.
- Recent Government announcement (1st November 2007) to increase youth detention centre capacity via the building of an additional 48 "beds".
- The Government announcement also recognized that the detention of juveniles was a last resort. However, we have genuine concerns based upon the "Field of Dreams" principle (*if you build it, they will come*). Inevitably, additional "beds" will mean higher incarceration rates.
 - Need a moratorium on the issue pending further discussions.
 - Ambivalence - as there is a strong argument for the need of an appropriate detention facility at Cairns (to avoid those in detention being removed from their family and community support structures).
 - Thus very much against the idea of augmenting existing facilities at Townsville.
 - If it proceeds – then an increase at Cairns should be offset elsewhere.
- Concerns that imprisonment/detention is prematurely the last resort due to a lack of adequate alternatives in the community.



Where to from here?

- Government consultation, commitment and good will is a key.
- Focusing upon rehabilitation options whereby Judges and Magistrates are armed with the tools they need to administer sentencing options which are backed-up via the proper resourcing of community infrastructure.
- Making post-release/sentencing support a key priority.
- The implementation, monitoring and enforcement of all Royal Commission Recommendations.
- Crucial need for an Independent watchdog and independent investigatory body (e.g. CMC not to refer complaints against police back to the police for investigation).
- Independent mechanisms to monitor and review the implementation of Coroner recommendations.
- Effective training for officers posted to Indigenous communities (e.g. cultural protocols; Royal Commission's Recommendations, Police Operational Procedures Manual).
- Appropriate cultural training at Police Academies – refresher courses for more seasoned officers – recruitment of Indigenous police officers to be a key priority.
- Implementation of Deputy State Coroner's recommendations – Mulrunji Inquest.
- Legislative reform in such areas as what constitutes a “public nuisance” – eliminate trivial matters which invite police attention and inflame passions.
- Legislative reform mandating police contact ATSILS for Indigenous suspects in custody (not just Police Operational Procedures Manual recognition). ATSILS 24 hour service.
- Draw a line in the sand on legislative reform which if forever increasing police powers. Real civil liberty concerns when all reform is based upon increasing the power of police to intrude into the everyday lives of our citizens – both Indigenous and non-Indigenous alike.

Any Questions?

- Limited time may mean that you do not have an opportunity to ask a question or seek clarification on an issue. Please feel free to contact me at any time:

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Tel: (07) 3025 3888

Thank you.



Office Locations (as of November 2007)

- Our current structure sees us with a head office in Brisbane together with 10 regional offices (staffed with a full complement of legal, field and administration staff) and 7 outpost or satellite offices located in outlying areas (manned by field officers).
- **HEAD OFFICE:** Level 5, 183 North Quay, Brisbane Q 4000
PO Box 13035 George Street, Brisbane Q 4003
Ph: (07) 3205 3888 (24 hrs) Toll Free: 1800 012 255. After-hours service available 24 HOURS.

- **REGIONAL OFFICES:**

- **Beenleigh:** (07) 3804 5033
- **Bundaberg:** (07) 4152 8044
- **Charleville:** (07) 4654 1721
- **Hervey Bay:** (07) 4128 2488
- **Ipswich:** (07) 3812 2772
- **Maroochydore:** (07) 5452 7633
- **Murgon:** (07) 4168 1944
- **Rockhampton:** (07) 4927 5711
- **Southport:** (07) 5532 6988
- **Toowoomba:** (07) 4659 7822

- **SATELLITE OFFICES:**

- **Chinchilla:** (07) 4662 8418
- **Cunnamulla:** (07) 4655 2191
- **Dalby:** (07) 4662 1317
- **Goondiwindi:** 0428 513 909
- **Roma:** (07) 4622 5366
- **St George:** (07) 4625 3052
- **Warwick:** (07) 4661 7799