

Family violence in Indigenous communities

I begin this evening by paying my respects to the Jagera and Turrbal peoples, acknowledging them as the traditional owners of the area in, and surrounding Brisbane, and paying my respects to the elders and their ancestors.

I welcome you all to this dinner, and I thank the conference organisers, Greg Reinhardt, Susan Armstrong and Anne Goldsbrough.

As a topic, family violence is probably not the best choice for a dinner speech. It is not a subject that aids digestion. It is a difficult and fraught subject and one which has no simple solutions. I know you are here because you are committed to addressing this problem – so I am going to forge on and speak about family violence as it affects Indigenous Australians.

The first part of this presentation will concentrate on contextual information about Indigenous communities and family violence, and the second part will point towards some potential actions that government and justice systems can engage in to improve the situation for Indigenous people of this country.

Defining family violence - kinship

As many of you know here, it is an unfortunate fact that family violence rates are extremely high in Indigenous communities. It is tragic that family violence escalates to homicide in Indigenous situations - at **rates that are double** that of the non-Indigenous population.¹ Family violence is a very big problem for my people and one which requires some serious thinking, problem-solving and resources. And unfortunately, the situation is not improving.

But before I go any further - I'd like to define *family violence* in Indigenous communities – because it has some features that differentiate it from **non-Indigenous** situations.

I'd like to stress firstly, that *family violence* is **not** cultural to Indigenous people. The term 'family violence' has always been the preferred terminology in describing Indigenous situations – as opposed to *domestic violence* - because it recognises the complex interaction of kinship structures and extended family relationships.

For the majority of the non-Indigenous Australian population, kinship usually means the immediate family and a limited range of other blood relatives. Therefore when there is domestic violence or family violence, it is usually between intimate partners such as married couples or defacto partners in the context of a nuclear family unit. However, a much broader kinship network operates among traditional Indigenous societies and this broader kinship also operates in modified forms in urban Indigenous communities too.

¹ Australia's Productivity Commission, *Overcoming Indigenous Disadvantage: Key Indicators 2007*, p 98, table 3.10.1

Our kinship is defined through blood relationships, through our marriage systems, through our moieties and our ceremonial practices. While the nuclear family is the most important social unit for Indigenous Australians, it takes in a wider range of kin than the nuclear group. For example, aunts and uncles have important parenting roles and children may live with aunts or grannies rather than parents. In regional and remote communities it is not uncommon for extended family groups to be living together under the same roof – for reasons of kin, or as a result of overcrowding. Those kin not living in the same household are invariably in close proximity to extended family groups when they live in small regional and remote communities.

According to one's relationship in the kinship structure – there are certain obligations and powerful expectations for behaviour. For example, a kinship relationship may mean that it is **not** appropriate to refuse family members who ask for money or for a favour. It is sometimes these obligation relationships that can lead to tension and violence amongst a broader kin group when there is **competition for limited resources**.

So the first point I want to make about kin and family violence is that the perpetrators and the victims are often related in complex ways. Whole family groupings can often be involved in tensions and conflicts. Sometimes violence between intimate partners can trigger other violent acts amongst kin, and this can become self-perpetuating.

The second point I want to make about kin and family violence is that it is precisely the importance of kin and the co-location of kin that makes it difficult for Indigenous victims to leave violent partners. Strategies for addressing family violence in Indigenous communities need to acknowledge that as a consequence of the powerful kinship networks, an Indigenous woman may be unable or unwilling to report violence or to leave her partner. In order to leave an abusive partner an Indigenous woman would most likely have to leave her community. But to do so would separate her from extended family, from her ancestral lands and her entire social, cultural and spiritual world.

Being separated from kin would constitute a fragmentation of her identity. Professionals working in Indigenous communities need to understand the powerful role that kinship plays in determining identity, and along with many other factors, kinship is a powerful disincentive to reporting violence.

Having touched on the social context of family violence, I'd now like to make a couple of points about the historical context of Indigenous people and violence.

Historical factors

Here in Queensland, the four places with the State's highest incidence of violence over past decades are former missions – Aurukun, Doomadgee,

Kowanyama and Mornington Island.² It is no coincidence that these places have high levels of violence. They were conceived in violence. Historical events such as the mission movements and the accompanying protectionist policies have had a direct impact on the de-skilling of Indigenous people, and for some they have been an impetus for substance abuse and intergenerational violence.³

In the case of the four Queensland communities, we know that Indigenous people were forced or coerced onto reserves and into missions where their every move was controlled. We know that the children from these missions and reserves were removed into institutions and when they were considered of working age they were forced into indentured slavery on the stations and in the homes of non-Indigenous people. Their labour contributed to the non-Indigenous economy.⁴

The Australian Human Rights Commission's *Bringing Them Home* Report of 1998 documented the effects of forced removal on Indigenous families and culture. When Aboriginal people were removed to reserves or missions, the children grew up with limited culture or identity. Children were raised with no concept of family life – having been institutionalised. These children became parents and had difficulty parenting their own children. Indigenous young people had no Indigenous role models because they were either absent or undermined. A cycle of dysfunctional family life was started. When Indigenous Australians were given permission to drink in 1960s, alcohol became a panacea for the pain of dislocated lives. This has no doubt been the situation in Aurukun, Doomadgee, Kowanyama and Mornington Island.

The history of Australia's colonisation provides background to some of the entrenched social problems afflicting contemporary Indigenous communities. And I remind you about this history this evening because the mistakes of colonial history can lead us to some solutions. I'll come to these later.

Homicide – prevalence and characteristics

So, let's now look at the prevalence and the patterns of family violence in Indigenous communities. I am going to focus on data where family violence situations have resulted in homicide because this data reveals patterns that are relevant to all Indigenous family violence situations.

² Community Safety and Justice Branch, Attorney-General's Department, *Violence in Indigenous Communities*, 2001, p14

³ Memmott P, Stacy R, Chambers C & Keys C, Violence in Indigenous communities, Report to the Crime Prevention Branch of the Attorney-General's Department, in association with Aboriginal Environments Research Centre, University of Queensland (2001), p 11, available online at: [http://www.crimeprevention.gov.au/agd/www/rwpattach.nsf/viewasattachmentPersonal/\(E24C1D4325451B61DE7F4F2B1E155715\)~violenceindigenous.pdf/\\$file/violenceindigenous.pdf](http://www.crimeprevention.gov.au/agd/www/rwpattach.nsf/viewasattachmentPersonal/(E24C1D4325451B61DE7F4F2B1E155715)~violenceindigenous.pdf/$file/violenceindigenous.pdf) accessed 5 September 2008

⁴ *Final Report of The Royal Commission Into Aboriginal Deaths In Custody - A Summary*, Chapter 10, 1991, available online at: http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/rciadic/rciadic_summary/rcsumk05.html#Heading13 accessed 4 September 2008

The data I am about to provide describes cases where **both** the victim's and the offender's racial appearance were recorded by police as either "Aboriginal" or "Torres Strait Islander." I have rounded the statistics to the nearest percentage point.

First, the data tells us that the rates of Indigenous homicide are extremely high by comparative standards – in fact according to the 2001 ABS Year Book, Indigenous people were on average 8 times more likely to be victims of homicide than non-Indigenous persons.⁵

In comparative terms, Indigenous homicide rates vary across Australia's states and territories. The jurisdiction with the lowest comparative rate had 5 times the number of homicides in the Indigenous population compared with the non-Indigenous population, and the Northern Territory had the highest comparative rate at 15 times that of the non-Indigenous population.⁶

Second, we know that *family violence* is overwhelmingly present as a factor in Indigenous homicides. The data tells us in comparison with the rest of the Australian population, Indigenous homicides are most likely to occur between intimate partners at twice the rate as the non-Indigenous population.⁷ Family and intimate relationships are definitive features of Indigenous homicide.⁸

Thirty eight percent of Indigenous homicides were between intimate partners, 19 percent involved other family, 27 percent involved friends and acquaintances. Yet when it came to strangers - only **3 percent** of homicides involved Indigenous people as compared with **21 percent** of homicides involving non-Indigenous strangers. There is a gender element to the statistical picture. Indigenous homicides are much more likely to involve women as either victim or perpetrator.⁹ The homicide rates of Indigenous women are between 9 and 23 times higher at different times in the life cycle than they are for non-Indigenous women.¹⁰

⁵ Australian Bureau of Statistics, *1301.0 - Year Book Australia, 2001*, 'Crime in Twentieth Century Australia', available online <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4524A092E30E4486CA2569DE00256331> accessed 10 September 2008

⁶ Australia's Productivity Commission, *Overcoming Indigenous Disadvantage: Key Indicators 2007*, Chapter 3, Headline Indicators, available online at: http://www.pc.gov.au/oid/headline_indicators/deaths_from_homicide_and_hospitalisations_for_assault accessed 5 September 2008

⁷ Australia's Productivity Commission, *Overcoming Indigenous Disadvantage: Key Indicators 2007*, p 98, table 3.10.1

⁸ Mouzos J., Trends and issues in crime and criminal justice, Australian Institute of Criminology (2001), p 3-4. available online at: <http://www.aic.gov.au/publications/tandi/ti210.pdf> accessed 5 September 2008

⁹ Mouzos J., Trends and issues in crime and criminal justice, Australian Institute of Criminology (2001), p 4. available online at: <http://www.aic.gov.au/publications/tandi/ti210.pdf> accessed 5 September 2008

¹⁰ Australian Bureau of Statistics, *4704.0 - The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples*, 2008 available online at: <http://www.abs.gov.au/AUSSTATS/abs@.nsf/39433889d406eeb9ca2570610019e9a5/8F08EF0297F11CC6CA2574390014C588?opendocument> accessed 5 September 2008

In non fatal violence, Indigenous women were 44 times as likely to be hospitalised for assault as non-Indigenous women.¹¹ In cases where an Indigenous woman was the offender, one-fifth of deaths by homicide were by an Indigenous woman as compared to one-tenth by non-Indigenous women. When Indigenous females killed, just under three quarters of their victims were male intimate partners.¹²

A third factor is alcohol. In **69 percent** of homicides involving an Indigenous person, both the victim and offender were drinking alcohol compared with **23 percent** for non-Indigenous. In only **17 percent** of Indigenous homicides neither victim nor offender was drinking compared with **61 percent** of non-drinking homicides in the non-Indigenous population. Alcohol is a distinct feature in Indigenous homicide.

And finally the data tells us there are geographical patterns to Indigenous homicide. From 1999 to 2005, the rate of Indigenous homicides in remote, outer regional and very remote areas was approximately three times the rate in major cities and inner regional areas. In 2004 to 2005, in the four jurisdictions for which data are available, Indigenous people were hospitalised in regional and remote areas for assault at 17 times the rate of non-Indigenous people.¹³

These data are overwhelming, and tell a very painful story for my people. The data also give us some indication of where to target our efforts.

What action is required?

I'd like to focus the second part of this presentation on ways in which to address this unacceptable situation. The solutions I am about to propose go beyond the role of the courts, but courts are part of the solution, as are the people who work in the justice systems.

I said earlier in this presentation that it is extremely difficult for Indigenous victims of violence to leave their kin and their communities – I'd like to add that in some places in this country it is **equally difficult and dangerous to stay**. Can you imagine what it must be like to live in one of the hundreds of remote communities across Australia where there are no police, no safe houses, no public transport out of town, no public telephones and no one to respond to your call for help? Add to this a policy that is currently in operation in the Northern Territory which prohibits locks on the doors of public houses in remote communities.

¹¹ Cunneen C., 'Preventing violence against indigenous women through programs which target men', (2002) 25(1) University of New South Wales Law Journal 242, p 242

¹² Mouzos J., *Trends and issues in crime and criminal justice*, Australian Institute of Criminology (2001), p 4, available online at: <http://www.aic.gov.au/publications/tandi/ti210.pdf> accessed 5 September 2008

¹³ Australia's Productivity Commission, *Overcoming Indigenous Disadvantage: Key Indicators 2007*, Chapter 3, Headline Indicators, available online at: http://www.pc.gov.au/oid/headline_indicators/deaths_from_homicide_and_hospitalisations_for_assault accessed 5 September 2008

Access to police and community safety

It is a simple fact that Indigenous Australians have unequal access to remedies to prevent or mitigate violence such as police services and safe houses. This situation is clearly unacceptable for any Australian citizen. So a first solution is that governments must address the allocation of **resources** and **recourses** to justice and safety for Indigenous people in this country.

Community Justice Initiatives

A second solution is for governments and justice systems to resource Indigenous people to be part of the solution to family violence and not just the problem. Over the last ten years, there has been a resurgence of Indigenous-led governance through Community Justice Groups. These Groups operate to empower communities to engage in their own formal and informal dispute resolution processes and to develop their own justice strategies. This includes overseeing court diversionary programs, victim offender conferencing and the operation of night patrols and safe houses.

Alongside the development of Justice Groups has been the introduction of customary law into some Australian court sentencing procedures. A number of states now have Indigenous courts - the Ngunga Court in South Australia, the Koori Court in Victoria, the Murri Court in Queensland and Circle Sentencing in New South Wales. While there are jurisdictional variations, in essence these courts invite Aboriginal Elders to assist magistrates in developing sentencing options. One practice is for offenders to face their Elders and for Elders to propose community punishments. In some instances, the Indigenous courts reconvene a few months after the sentence to review the progress of the offender.

While the Indigenous courts and justice system have had some promising impacts – including an increase in court attendance rates in South Australia, these initiatives need to go hand in hand with other strategies.¹⁴ Indigenous communities have not recovered from a range of harmful state practices which undermined customary law and authority, leaving the way open for a degree of lawlessness and high levels of dysfunctional behaviour. These problems have not been adequately mitigated by either customary law or Western law.

Two laws together

An important step in overcoming Indigenous family violence is to demonstrate the synergies between Australian law and customary law. Both systems of law

¹⁴ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Submission to the United Nations Committee on the Rights of the Child for their Day of General Discussion on the Rights of Indigenous Children*, the Human Rights and Equal Opportunity Commission of Australia, 2003, available online at: http://www.hreoc.gov.au/Social_Justice/croc/sub3.htm accessed 8 September 2008

prohibit family violence, and both are about maintaining order, stability and good governance. We need to be working on approaches where the two laws reinforce each other. Emphasising respect for both laws and finding the correlations between them is fundamental in any efforts to prevent family violence.

I have been working on an education project with the Attorney General's Department to raise awareness in remote Indigenous communities about Australian law and customary law. This project that aims to prevent family violence through education and community development. I don't have time to go into it now, but suffice to say that this project is about empowering Aboriginal and Torres Strait Islander community development workers to do some of the following things:

- To assist communities to develop anti-violence campaigns like painting community murals about community safety;
- To work with the local Justice Group to address develop local solutions, like alcohol management plans;
- To assist individuals and groups to access mental health services, mediation resources or victims of crime compensation.

Community development is an essential part of the solution along with increased justice and safety resources.

Healing

The next part of the remedy is healing. Alcohol abuse and family violence are often expressions of trauma that go beyond the individual experience and are about 'inter-generational trauma'.

An emphasis on healing recognises that there can be an interchange between the experiences of offender and victim in the cycle of violence. The *Little Children are Sacred* report cites the unpublished thesis of Caroline Atkinson-Ryan to illustrate this connection. Through her interviews with prisoners she found that over a third of the men in her sample had been sexually abused, and of these most could be diagnosed with post traumatic stress symptoms. Her research reflects the experience of abuse shaping offending behaviour.¹⁵

High levels of victimisation can be linked to trauma and further violent behaviour. For example, a 2003 NSW study, found that:

- 70% of Indigenous women in prison had reported being sexually abused as children;
- 78% reported being physically abused as adults; and

¹⁵ Atkinson- Ryan, C. cited in Anderson, P. and Wild, R., *Ampe Akelyernemane Meke Mekarle 'Little Children are Sacred' Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse*, Northern Territory Government, Darwin, 2007, p67

- 44% reported sexual assault as adults.¹⁶

Evidence from other countries shows high levels of family violence and other forms of abuse in places where the Indigenous population has been exposed to colonisation, loss of culture and pervasive disadvantage. In response, Canada for example, has developed the *Hollow Water Community Holistic Circle Healing Program* in Manitoba. This program works with victims, offenders and community members. Over the past 15 years, 107 offenders have completed the program with less than 1% recidivism, and at a saving of \$15 million dollars over 10 years to the Canadian government.¹⁷

Healing is an important part of recovery. We need to look at ways in which counselling, narrative therapies, mental health and social work services can be provided across the country in ways which reach Indigenous populations where they are needed.

Justice reinvestment

The last solution that I am about to propose is called Justice reinvestment. I spoke about this recently at a presentation at the Australian Institute of Criminology.

Justice reinvestment is an idea that originally came from the United States. It is a criminal justice policy approach that diverts a portion of the funds spent on imprisonment to the local communities where there is a high concentration of offenders. The money that would have been spent on imprisonment is reinvested in programs and services that address the underlying causes of crime in these communities.

Justice reinvestment still retains detention as a measure of last resort for dangerous and serious offenders but actively shifts the culture away from imprisonment. Instead of imprisoning people it starts providing community wide services that will actually prevent offending. It is not just about tinkering around the edges of the justice system – it is about trying to prevent people from getting there in the first place.

Justice reinvestment is based on evidence that a large number of offenders come from a relatively small number of disadvantaged communities. Demographic mapping in the US has identified ‘million dollar’ blocks where literally millions of dollars are being spent imprisoning people from certain neighborhoods. For instance, there is one neighborhood, *The Hill* in Connecticut where \$20 million was spent in one year imprisoning just 387 people. The Hill is disproportionately made up of low income, African Americans.

¹⁶ Aboriginal Justice Advisory Committee, *Speak out, Speak Strong*, Aboriginal Justice Advisory Committee, Sydney, 2003, p5.

¹⁷ Young, M., *Aboriginal Healing Circle Models Addressing Child Sexual Assault, An examination of community based healing circles used to address child sexual assault within Aboriginal communities in Canada*, The Winston Churchill Trust of Australia, 2007.

I think it is fairly safe to assume that we have our own version of million dollar blocks, and some of the communities I mentioned earlier may be good starting points for justice reinvestment. Thorough demographic mapping hasn't been done in Australia yet, we have data which identifies the most disadvantaged post codes in Australia, and many of these have higher than average Indigenous populations.¹⁸

The idea of reinvestment in whole communities is quite a departure from current policy approaches which focus specifically on the individual. Most corrections programs provide individual and some group work, but little support for the broader community. At the end of the day, you can put an offender through the best resourced, most effective evidence based rehabilitation program, but if they are returning to a community with few opportunities, their chances of staying out of trouble are limited.

The other important outcome of focusing on communities is to keep them together and functional. Most people who have worked in family violence prevention in Indigenous communities will tell you that the women say, help us look after our men.

If all we do is remove people from communities where there is family violence – we can expect at some point they will go back. Nothing will have changed in the interim. The offender will probably still be exhibiting the same behaviours and there is likely to be few support for him in his disadvantaged community. The impacts of the violence in the family and his incarceration are intergenerational. Proactive efforts to work with communities and to provide support to communities on issues like healing, alcohol management and parenting may provide enormous benefits and avoid the costs in emotional and in financial terms.

Justice reinvestment is working. In the state of Kansas in the USA a community development program called *the New Communities Initiative* has been developed for neighborhoods where there are high imprisonment rates. This justice re-investment initiative brings together state, county and community leaders to improve public safety, education and housing for the disadvantaged neighborhoods. In the first year they set up a program for children of incarcerated parents, created a local job placement agency, diverted portions of the city liquor tax revenue to be spent on substance abuse treatment targeting these neighborhoods, expanded the healthy babies program, reallocated school resources and set up a summer program employing young people from these areas to landscape and revitalise their neighborhoods.

Since the *New Communities Initiative*, Kansas has experienced a 7.5% reduction in their prison population; parole revocation is down by 48%; and the reconviction rate for parolees has dropped by 35%.

¹⁸ T Vinson, *Dropping off the edge: the distribution of disadvantage in Australia* (2007).

I am considering setting up a round table on justice reinvestment later this year and I will need some partners. It will take all of our voices to support something like this. This is dramatic policy change and will require dramatic shifts in thinking. It *is* possible to turn around the Queen Mary – and we might even bring WA along, after all, some of the most conservative states in the United States are on board with justice reinvestment – including Texas.

Policy change and attitudinal change will require support and enthusiasm from many quarters. I encourage you to have a look at this issue. I will be publishing a chapter on this subject in my next *Social Justice Report 2009* due out later this year.

Indigenous people must be part of the solution

I'd like to conclude by saying that self determination is the antidote to the imposed systems of the mission movements and reserve days. The Community Justice Groups and the Aboriginal Courts that I mentioned earlier are an important step forward and away from imposed passivity. But so much more Indigenous participation is required across all areas of justice, policy development and governance.

And new thinking is needed to address problems that seem to be intractable. Justice reinvestment is a new way to think about addressing social problems. As Albert Einstein said, the definition of madness is doing the same thing again and again hoping for different results.

We need different results in family violence. We need hope for Indigenous communities that have suffered multiple disadvantages.

I like to end many of my presentations with the following statement, and this statement is particularly powerful in the context of family violence: – from self respect comes dignity, and from dignity comes hope. Thank you