

Submissions to the Inquiry into Indigenous juveniles and young adults in the criminal justice system

The Youth Drug and Alcohol Court (YDAC) program in NSW is an effective method of reducing the over-representation of Indigenous juveniles in the criminal justice system.

Whilst YDAC is not an Indigenous specific program, it is a program that has proved very effective for Indigenous Young People. The Children's Court of NSW Practice Note 1 describes the objective of YDAC as the following; "The Youth Drug and Alcohol Court is a program concerned with reducing drug and/or alcohol related criminal activity by Children through judicial and therapeutic interventions that are designed to reduce or manage drug and/or alcohol usage."

The Program combines the resources of The Department of Juvenile Justice, The Department of Community Services, the Department of Education and Training, the NSW Police, the NSW Health Department and Legal Aid NSW. The combination of all those departments providing representatives means the reasons for offending are addressed as are the solutions.

This is why YDAC is especially effective for Indigenous Young People. It is no secret that the majority of Aboriginal People have poorer health than non-Indigenous Australians, a lack of education and are over-represented in the Criminal Justice system. By combining all the Departments that deal with those issues, a solution can be found.

Those three main issues facing Indigenous people, namely, health, education and over-representation in the criminal justice system are all State-based issues. However, the Aboriginal affairs power falls under the Commonwealth power. Coordination of departments and their resources needs to occur for effective in-roads to be made in the issues facing Indigenous people.

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11 DEC 2009
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- **How the development of social norms and behaviours for Indigenous juveniles and young adults can lead to positive social engagement;**
- The YDAC program has an element that encourages young people to find employment or re-engage with the education system. It is quite often the case that Aboriginal young people involved in the criminal justice system come from an entrenched background of reliance on welfare. Telling a young person to 'get a job' is pointless when it's a foreign concept. By actually having an individual caseworker who can help the young person look for work, take them to the interview, explain to them the basics of having a tax file number and bank account details can make an enormous amount of difference. The caseworker also gives them the support if any problems should arise with the employer.
- Activities organised by the YDAC program and community services include; leisure activities, health and lifestyle workshops addressing self-esteem issues, healthy choices, sexuality, budgeting, offending, alcohol and other drugs.¹
- **The impact that alcohol use and other substance abuse has on the level of Indigenous juvenile and young adult involvement in the criminal justice system and how health and justice authorities can work together to address this;**
- The YDAC program is unique as a diversionary program as it also takes Young People with alcohol abuse issues as well as drug abuse. The majority of offences that bring Aboriginal Young People before the Children's Court are alcohol fuelled offences or to feed one's habit. As part of the YDAC program, NSW Justice Health provides nurses and DOA psychologists to work with Juvenile Justice and the Courts to help Young People address these issues.
- Justice Health provides a Health Services manager and 2 registered nurses. They ensure young people are given access pharmacotherapies, dental, mental health and blood borne virus management.²
- The majority of Young People attend a residential rehabilitation facility, predominantly PALM run by the Ted

¹ Hales et al, Service Review of the NSW Youth Drug and Alcohol Court (YDAC) Program. 3.2.4.

² Hales et al, Service Review of the NSW Youth Drug and Alcohol Court (YDAC) Program. 3.2.4.

Noffs Foundation. This provides intensive therapy for Young People.

- **Any initiatives which would improve the effectiveness of the education system in contributing to reducing the levels of involvement of Indigenous juveniles and young adults with the criminal justice system;**
- The YDAC program also involves the NSW Department of Education and Training.
- The Department of Education and training provides a Senior Education Officer and 2 teachers for the YDAC TAFE program. Young People are enrolled as TAFE students who study accredited modules working towards the Certificate of Adult Basic Learning.³
- Education is the key to change. Education to not only increase the literacy and numeracy skills of Aboriginal people but also education as to living skills.
- YDAC educates Young People as to 'ending offending' i.e. reasons why they continually come before the Courts and education as to victim empathy.
- By providing Young People with the skills to find employment and appreciate the effect of their offending on the community, the involvement in the justice system decreases.
- **The effectiveness of arrangements for transitioning from education to work and how the effectiveness of the 'learn or earn' concept can be maximised;**
- All participants on the YDAC program are encouraged to either transition back into the education system or find employment. That employment must be approved by the JART team who ensure the employment is appropriate and legal.
- Before Young People can be told to 'learn or earn' it must be guaranteed that there are actually education facilities for them or possible places of employment. Given that so many Young People who come before the criminal justice system are illiterate, telling them they must find a job or go back to school is redundant and only contributing to crime. There has to be support. Very often Young People have tried all the education options and found themselves expelled. If there are no support networks and appropriate education facilities

³ Hales et al, Service Review of the NSW Youth Drug and Alcohol Court (YDAC) Program. 3.2.6

available and their Centrelink payments are withdrawn, they will only return to crime.

- **Best practice examples of programs that support diversion of Indigenous people from juvenile detention centres and crime, and provide support for those returning from such centres;**
- The greatest diversion programs are those that go straight to the cause and find a cure. The reasons why Aboriginal Young People are more likely to come before the criminal justice system is quite obviously a result of years of oppression, poverty and lack of education. Aboriginal People have always been highly overrepresented within the justice system. The cyclical nature of Aboriginal people before the criminal justice system needs to be broken.
- The breaking of that cycle need not occur in the same way this country has attempted to in previous years i.e. the stolen generation which only aggravated the situation. The cycle can be broken through intensive supervision and education.
- YDAC is, in my opinion, a best practice model. It combines all government departments to treat the problem on a holistic level.
- **The scope for the clearer responsibilities within and between government jurisdictions to achieve better co-ordinated and targeted service provision for Indigenous juveniles and young adults in the justice system;**
- Currently, YDAC involves only departments that fall under a state jurisdiction, including, the Attorney-General's department, The NSW Police, The Department of Juvenile Justice, the NSW Health Department, the Department of Community Services and the Department of Education and Training.
- Aboriginal Affairs falls under the Commonwealth power, despite the very pressing issues for Aboriginal People being issues that fall under State jurisdiction i.e. access to proper health care, lack of education, overrepresentation in the criminal justice systems.
- If the 'gap' is ever going to be closed, there needs to be greater understanding between the Commonwealth and State governments about what is being done. All governments maintain they have the same goal, but to achieve that goal,

the decisions and programs that are designed need to consider what funding is available.

- **The extent to which current preventative programs across government jurisdictions are aligned against common goals to improve the health and emotional well-being of Indigenous adolescents, any gaps or duplication in effort, and recommendations for their modification or enhancement.**
- YDAC stands as a great example of the change that can occur if different departments work together. YDAC combines the Department of Community Services, Department of Education and Training, the Department of Juvenile Justice, the NSW Health Department, the NSW Police and Legal Aid NSW.
- By all departments working on the same goal of working on the reasons as to why Aboriginal Young People come before the criminal justice system, the resources and expertise are combined to achieve greater results.
- There is a Program Plan developed for all Young People which considers the following; health care, living skills, education/vocation, legal status, responsivity, substance use, accommodation, family/support/peer network, offending behaviour and recreation and leisure.

Conclusion

The Youth Drug and Alcohol Court program is an effective way of reducing the likelihood of re-offending and going straight to the core of the reasons for over representation of Indigenous people before the criminal justice system. Although it is not an Indigenous specific program, Aboriginal people often make up over one third of those people on the program. YDAC is restricted in the people it can help. Its jurisdiction only falls within the Greater Sydney area. It unfortunately cannot reach the greater population of Aboriginal youths that require this program.

The Parliament of Australia needs to work with the State governments. All states have varying problems. I cannot say this program, would work in all States, but I can say that the YDAC program works in NSW. It tackles all the issues and works with the Young People and their families towards a better life.

In 2009, YDAC featured on the ABC program 'Four Corners', in 'The Australian' Newspaper, the 'Daily Telegraph' newspaper and more

recently on the SBS program 'Living Black'. All reports focused on the positive and great work that YDAC is doing for Young People.

NB The opinions expressed in these submissions are personal. Whilst I am employed as the solicitor for the Youth Drug and Alcohol Court on behalf Legal Aid NSW, the views expressed do not reflect that of Legal Aid NSW nor the Attorney-General's Department NSW.

Bibliography

Hales J, Heseltine K, Wood H (2008) *Service Review of the NSW Youth Drug and Alcohol Court (YDAC) Program*. Health Outcomes International Pty Ltd.