

SPEECH TO THE ABORIGINAL JUSTICE AGREEMENT (AJA) STATE ABORIGINAL
JUSTICE CONGRESS
7 April 2009

Paper presented by: Dr Sue Gordon AM

INTRODUCTION

Good morning ladies and gentlemen, thank you for the invitation to the Indigenous Implementation Board to speak here today. The Chairman of the IIB, Lt. General John Sanderson has asked me to represent the Board on his behalf.

The invitation from Ms Karen Ho, Director, Aboriginal Services, Department of Attorney General specifically asked that the presentation provide the opportunity to share information in relation to the IIB's roles and responsibilities and to provide clarity as to the IIB's proposed relationship with the Aboriginal Justice Agreement in Western Australia.

I will now outline the role of the Indigenous Implementation Board and how the Board and the Aboriginal Justice Congress might work together.

But first, I would like to acknowledge the past and present traditional custodians of this land on which we are meeting. When I mentioned Aboriginal, please note I am referring to both Aboriginal and Torres Strait Islander peoples.

Some of you I already know, so for the other members who I have not met, I retired under Western Australian law in September 2008 after over 20 years on the Bench of the Children's Court of Western Australia, at aged 65 years, being the statutory retiring age for Magistrate's in Western Australia. I am retired, not physically incapacitated or

dead, so continue to work nearly full time on a number of Boards and in Consultancy work, with a specific emphasis on children and Aboriginal issues.

THE INDIGENOUS IMPLEMENTATION BOARD

The Indigenous Implementation Board was established by the Western Australian State Government in December 2008. The members of the Board are those persons appointed by the Minister for Indigenous Affairs (Minister)

The Terms of Reference.

The responsibilities of the Board include:

1. Developing a framework to use to collaborate a focus resources for future agreements with the Commonwealth, Local Governments and other key stakeholders working with indigenous Western Australians.
2. Establishing accountability mechanisms to monitor achievement against agreed targets and focus resources to maximize positive outcomes for Indigenous Western Australians.
3. Delivering a bi-annual report to Cabinet on progress in the Indigenous Affairs portfolio in Western Australia.
4. Driving fundamental policy shifts through stronger and more accountable Government governance, building trust through consistency and commitment.
5. Building effective participation of Indigenous people, and the broader WA leadership, supporting effective community governance, leadership and structures necessary to engage with Government.

6. Providing advice on human and financial resources required for Indigenous people to participate in decision-making that affects community lives and the way services are provided.

Specific Activities

Specific activities to be undertaken in the first two years include:

1. Establish a government governance framework to improve coordination and management of service delivery at the regional level.
2. Strategically positioning the State in relation to State, Commonwealth and Local Government responsibilities through relevant bilateral and other arrangements.
3. Developing, with State agencies, clear overarching regional action plans to guide current and future activities linked to bilateral arrangements and State investment priorities.
4. Producing an Annual Western Australian report on achievements of Indigenous outcomes against the investment in indigenous affairs, including specific and mainstream services to Indigenous people in Western Australia. This will also be provided at a regional level.
5. Leading current and future planning to focus the State investment in Indigenous communities that can provide a more sustainable quality of life and enhance the capacity of Indigenous people to contribute to the common wealth of Western Australia.

Intended Outcomes

These activities will establish the conditions for a stronger ongoing commitment by:

1. Ensuring that Government agencies are aware of how their services and programs fit within a State framework.

2. Researching, monitoring and reporting on the progress of Government agencies in meeting their outcomes centrally, regionally and in local areas.
3. Influencing development approval outcomes to maximize the investment in Aboriginal economic development.
4. Partnering with Commonwealth, Local Government, education institutions and business to leverage support for the State effort.

Reporting

The Board will report to the Minister for Indigenous Affairs with the Department of Indigenous Affairs (DIA) providing the Secretariat.

The Board will provide three written reports over the first two years of operation:

1. Report to the Minister for Indigenous Affairs on progress of the Board, six months following its commencement;
2. Report to the Minister for Indigenous on progress of the Board, 12 months following its commencement; and
3. Report on progress in the Indigenous Affairs portfolio following 18 months of the Board's operation.

The Board is an important part of the State Government commitment to see the advancement of Indigenous Western Australians. It is well placed to provide advice on the causes, not the symptoms, of Indigenous disadvantage and to develop a proposal for a regionally based reform agenda that can be progressed through the Council of Australian Governments (COAG) and modeled federally.

At the Board's first meeting on 5/6 February 2009, the Minister for Indigenous Affairs, Dr Kim Hames, in describing the Board's function said:

The Board is here to advise the State Government on how to identify and cut through the obstacles and really improve social and economic outcomes for Aboriginal and Torres Strait Islanders (in Western Australia).

Lt. General John Sanderson chairs the Board, and the members bring a range of experience and skills to it. The other Board members are:

- Mr Mark Bin Barker
- Mr Kim Bridge
- Ms Dawn Wallam
- Dr Helen Milroy
- Mr Brendan Hammond
- Professor Fiona Stanley
- Ms Ricky Burges

The idea for the Board was borne out of a sense of frustration within the Government that progress in achieving social justice for Indigenous people and closing ‘the gap on Indigenous disadvantage’ is not happening quickly enough, despite the plethora of programs and initiatives in place aimed at improving people’s lives. The data show that government policies and programs are failing to hit the mark for Indigenous people.

The Board provides critical analysis and advice to the Minister about how government policies, programs, structures and processes need to change in order to fast-track the outcomes that governments want, and the outcomes that our people want and need, for example:

- to live longer, healthier and happier lives;
- for our children to have a good start in life and not to be burdened by the effects of trauma and poverty; and of particular relevance to your work as AJC members
- to improve people's life chances, especially our young people, by removing them from the 'revolving door' that leads to Western Australia's prisons and juvenile justice centres.

Underpinning the Board's work is the belief that Aboriginal people should be empowered to create their own future.

Success in overcoming Indigenous disadvantage won't be achieved without Aboriginal people being involved in the design and delivery of services. Governments have a poor track record in enabling this to happen. The Board is intent on changing this situation.

The Board believes that solutions to some problems can be found by drawing upon the richness, vibrancy and resilience of Indigenous culture, and we will be seeking the advice, ideas and guidance of senior Aboriginal Lawmen and Law women on ways to resolve the more difficult problems.

In achieving success, we also need to look beyond Perth by focusing on regional governance structures to build sustainable communities, economies and environments. The Board has commenced 'regional dialogues' with Kimberley Aboriginal people and with representatives of the South West Aboriginal Land and Sea Council.

The Board will also engage with the Commonwealth Government and try to exert influence over its policies and programs and to point out overlaps and gaps in services when these are observed.

The Board is independent in the sense that it sits outside the institutional structures of Government, and is in a position to truly give 'fearless and frank' advice to Government on Indigenous matters.

There is a collective expectation among the Board members that we will be heard and that the Government will act on our advice. Members will not be shy in holding the Government to account for its performance in Indigenous affairs. The Board will report to Cabinet twice a year.

HALVING THE IMPRISONMENT RATE

With regard to justice-related matters, the other Board members and I are keen to engage with Aboriginal Elders about ways to reduce the Aboriginal imprisonment rate. The Board would like to see the imprisonment rate halved. We have not set a target for this, but need to continue to talk to Aboriginal people and organizations, including yourselves. Talk about 'closing the gap' will remain empty rhetoric unless we have targets to work towards and ways of measuring progress.

I intend to ask a Pilbara Lawman whom I know to meet with the Board to discuss cultural ways of dealing with juvenile offending. I already understand that some Pilbara Elders are spending time with their young people 'out bush' (for up to 12 months) with a

view to helping the young people to strengthen their cultural ties to stop or prevent offending, and to stay out of the criminal justice system

The Board plans to hold meetings with Law people in the Kimberley, Goldfields and Murchison regions in the same vein.

During my time as a Magistrate in the Children's Court I had discussions with some members of SWALSC about the Noongar people becoming "strong as a community" by resolving feuding, stopping child abuse and family violence, getting kids to school, and building a strong future. The Board is hopeful of having discussions with Noongar Elders about how they could work with their young people on culturally relevant ways to stop juvenile offending.

The Board met with Commissioner Ian Johnson from the Department of Corrective Services recently to discuss the overrepresentation of Aboriginal people in the justice system. Members were encouraged by Commissioner Johnson's commitment to work with them to try to reduce Indigenous people's rate of contact with corrective services.

The Board also intends to work on halving the Indigenous imprisonment rate with the soon-to-be-reestablished Western Australian Aboriginal Advisory Council (an Indigenous group that will advise the Minister for Indigenous Affairs on all matters relevant to Aboriginal people) and the Aboriginal Affairs Coordinating Committee (the group of Directors General whose role is to coordinate activity regarding Indigenous policy and programs within the Western Australian Government).

TAKING RESPONSIBILITY

Governments have a role in helping citizens to achieve and maintain a sense of power or control over their lives by producing sound policies, by ensuring that its institutions are strong and just, and through providing responsive and accessible services.

Ultimately, however, Aboriginal people must also take responsibility for changing their circumstances. We know that relying solely on governments doesn't work, and only leads to disempowering situations like welfare dependency and its associated problems.

Parents and parents-to-be, for instance, have a responsibility to provide a loving, nurturing and protective environment for their children, particularly throughout pregnancy and in the early years.

What happens to children in the early years has consequences right through the course of their lives. Many of the health and wellbeing problems we see in adults—obesity and its associations such as diabetes and heart disease, mental health problems, criminality, family violence, poor literacy, unemployment and welfare dependency—have their origins in pathways that begin much earlier in life, often in early childhood.

You would be aware of the recent media coverage of the increasing rate of Fetal Alcohol Spectrum Disorder amongst Aboriginal children in the Kimberley, and the disastrous effects binge-drinking during pregnancy has on the life of a child. Alcohol dependency and its associated problems are what people in Fitzroy Crossing have been tackling, with some early results showing what can be done if alcohol dependency, especially full strength beer, is reduced. The move to enable Licencees to be able to refuse service to pregnant women is something which requires careful

consideration and education. Regardless of the disasterous consequences already showing through Fetal Alcohol Syndrome across Australia, even pregnant women have rights.....its education on the effects of drinking throughout pregnancy that is required urgently.

Governments can support parents to provide the type of home environment that will help children have a good start in life by having good policies and programs that support early years' development. This is an area that the Board has a particular interest in and will be pursuing through its work. Children are generally lumped in under the heading of Aboriginal people's, however my personal preference is that we keep Children's issues separated out, so the emphasis on the Rights of the Child as per the United Nations Convention on the Rights of the Child can be properly monitored.

CONCLUSION

I know that you are working hard to reduce the over-representation of Aboriginal people in the criminal justice system by strengthening individual and family wellbeing and creating safe and sustainable communities through the use of Aboriginal Justice Agreements. However, unless all agencies work together to address the underlying issues of incarceration such as those areas mentioned on an almost daily basis of:

1. alcohol or illicit substance abuse;
2. being unemployed or other welfare recipient;
3. being a person or family member of the stolen generations;
4. suffering financial stress: and
5. living in a crowded house.

Which are mentioned again in a recent Corrective Services report where WA is again the State with the highest incarceration of Indigenous people's.....these issues will be raised again and again, year in and year out.

Partnerships involve the whole community and while you may sometimes think you are banging your collective heads against the proverbial brick wall and often wonder if the programs are having an effect on offenders.....and expect criticism from the wider community when repeat offenders are mentioned again and again.....then you will know how the judiciary feel.....seriously though I would like to quote you a passage from a speech by Ron Archer of the Queensland Corrective Services Board at the Australian Crime Prevention Council in September 1991...he said:

A 21 year old comes to gaol for the first time. He/she is sentenced to six months on a stealing charge.

This is not his/her first offence. H/she has been convicted a number of times before but this is his/her first prison sentence.

He/she is addicted to alcohol and is into drugs. He/she cannot read or write.

He/she has never had a permanent job. He/she has not lived in a proper home since his/her early teens.

He/she goes to gaol, gets out after about four months with remission, and in a short space of time is back inside because he/she has reoffended.

Over a period of 21 years this young man/woman's behavior patterns have been developing and manifesting themselves.

And yet there are those in the community who immediately blame the prison system when he reoffends because, as they put it, "Prison didn't teach him/her anything".

Well let's have a closer look. At some stage this young man/woman had a mother and father. Did they fail him/her?

For a number of years he/she went to school and yet he/she cannot read or write. Did the education system fail him/her?

For several years he/she was eligible for the workforce but never got a job. Did the business world or governments fail him/her?

For at least six years he/she was a heavy drinker and regularly dabbled in drugs. Did the churches, or the welfare system, or the police, or the community generally fail [him/her?](#)

Throughout his/her 21 years he/she has amounted to virtually nothing.

He/she is a non-achiever. He/she has no self-confidence. He/she has no self-esteem.

And, yet, in four months, the prison system is expected to change behavior patterns that have developed over 21 years.

Is that fair? Is it reasonable to expect the prison system to correct 21 years of wrongs in just four months?

Governments continue to pour money in each year to support people in prison, building new prisons, setting up new programs, all the time soaking up badly-needed resources that could be used right up the front where the problems are first occurring. As I said I sat on the Bench for over 20 years listening to the same arguments of what can we do to stop Aboriginal people being imprisoned, what can we do to alleviate the overcrowding, what can we do to stop the drunken violence and child abuse.

We must all continue to go back to supporting parents when they first bring their child home from Hospital, we have to ensure they fully understand that they have the initial responsibility to teach their children.....Governments must work to overcome the other problems, the overcrowding, the alcohol reforms etc.....otherwise we will see our grandchildren sitting on Committees and Boards still discussing ways to overcoming the higher statistics of Aboriginal youth suicide and higher Aboriginal imprisonment rates.....I have grandchildren in their 20's now, so this is a reality.

The Board supports the AJC's work and would like to work with you. I hope you are agreeable to working with us.

Thank you.