

COEN JUSTICE GROUP

ABN 29 679 368 598

Post Office

Coen

Qld 4892

Phone/Fax 07 40601062

Mobile [REDACTED]

E-mail [REDACTED]

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Submission to the productivity Commission re imprisonment

Summary

By making effective community based alternatives available the amount of incarceration can be greatly reduced.

Since 2002 the Coen Justice Group have progressively developed a highly effective and innovative approach to reduce the level of imprisonment of persons from our small and remote indigenous community.

As a result of this program we are able to make representations to the courts for a significant percentage of offenders to allow the court to consider community based alternatives to incarceration.

The corner-stones of this are placements on country as an alternative to incarceration, cooperative Case Management of offenders or persons at risk and referrals to other agencies.

We note that the current cost of incarceration is stated to average some \$107,000.00 per prisoner per annum.

We know that our effectiveness is severely limited by our low level of funding of about \$100,000.00 per annum.

The Coen Justice Group

Is an incorporated body, it has member ship of volunteers who are elders and respected persons drawn as far as is possible for the seven language groups in Coen.

The primary functions funded by DJAG is to advise the courts on the sentencing of local indigenous offenders.

Community Profile.

Coen is located near the centre of Cape York Peninsular. The population is about 350 persons 90% of whom are indigenous. Nearly 50% are under 18 years old. It has two retail shops, a hotel motel, a primary school , police station with three officers, and various support agencies.

As part of the Cape circuit Magistrates Court sits in Coen every two months. If needed there can be additional sittings for trials and sentencing of District Court Matters.

Justice Group receive an additional \$150,000.00 pa for Domestic Violence prevention where we have a highly effective programme which overlaps with what is described here. That this program is effective is proven by the fact that in spite of a rapid increase in the number of DV matters brought before the courts, (in itself a measure of success), the severity of offences is undergoing a steady decline, the number of related hospitalisation is decreasing and the number of matter referred to District Court has decreased from 5 to 19 per annum in 2002 to about 1 or 2 per year at present.

Justice Group are also encouraged, although not funded to support victims and work on crime prevention, We do so, our effectiveness is compromised by the miserable level of funding.

There is a delusionary belief at DJAG that Justice Groups can obtain additional funding from other sources. In those cases where Justice Group are based in an Aboriginal Shire this is often the case. In our and similar cases it is not so.

Referrals to other agencies.

This is addressed on a case by case by case basis.

If it is felt that the offender and/or victim would benefit from contact with any agency that agency is informed and reports back if the person has attended or engaged.

The use of placements to Outstations

The use of outstation placements is central to this program.

We have available a number of different outstations attached to different language groups.

Some are more useful and successful than others.

Currently the most useful are, not in any order, Kulpa (Southern Kaanju) Puntimu (Apaputhu) and the complex of Lams Lama outstations on the Coral Sea coast.

The essential elements for success on an outstation placement are; that the person or couple be welcome there; that there is something to do, employment is best; that the accessibility of drugs and alcohol is low; that housing is available; and that telecommunications are

available. It is highly desirable that there will be a person who will be responsible for reporting problems to police or Justice Group.

These factors are variable but at named stations most of these criteria are met most of the time.

The main benefit from the use of outstation placements apart from increased safety of victims, is reduced incarceration

In Practice

We become aware of a pattern of behaviour which in our opinion is liable to lead to an offence.

We will attempt to engage with the person.

If we fail in that, that fact will if necessary in due course be brought to the attention of the court.

If we succeed the person will be encouraged to seek help.

No Offence has taken place but we believe the risk is significant.

We will encourage the person to attend counselling or suitable things such as Men's Group This will be monitored.

An offence has occurred and a charge has been made.

And

The offender has been given a notice to appear.

Again we will encourage the person to attend counselling or suitable things such as Men's Group This will be monitored. If they attend this

information will be reported to Court which will be in their favour.

Or if

The offender has been given Police Bail.

The offender will be referred to appropriate agencies or services to attend before going to court. If they attend these the court will be informed of this and the services or agencies will be asked to provide report or references to the court. Again if the offender has taken advantage of this the court will be informed of this which will almost certainly reduce the severity of their sentence.

Or if

The offender is in a show cause situation and or police object to bail

If after the appropriate consultations Justice Group are of the opinion that bail to an outstation is appropriate then that can be bought before a court. In a number of recent cases a court has been convened by phone with the offender in the Police Station Coen. This avoids the expense and inconvenience of removing the offender to Cairns and the if bail is granted or returning them from Cairns to Coen. If we have decided to go down this route it has never happened that Police have objected to bail to the outstation, they have unable to give bail or object to the offender being in Coen. The reason Police would object to the offender being in Coen would usually be that they feel for the safety of the victim. If the offender is bailed to an outstation the safety of the victim is improved.

Given our bimonthly Court Circuit, and that briefs will be needed for most serious matters we can have long periods before matters are

finalised. A lot of money can be saved, families are helped to remain intact and when finally sentenced the offender may wee be able to demonstrate that no further troubles occurred while they were on bail to the outstation and that there-fore it is a good alternative to incarceration.

The offender pleads or is found guilty.

Then either

The risk of imprisonment is low.

In this case the Justice Group will make an appropriate recommendation to the court some where in the range of a Good Behaviour Bond, a Fine preferably converted to Community Service or Probation with conditions of Probation for them to continue with counselling etc.

or

The risk of imprisonment is high.

The offender is not cooperative or assessed as presenting a high risk to the community.

Justice Group can offer no help.

Or

Justice Group can see that the matter may be dealt with in community

The range of recommendations would cover the range through Probation with conditions as above, A fully suspended prison sentience, parole with terms served varying from immediate parole to parole date of eligibility set through intensive Correctional Orders.

For a considerable number of the more serious offences and more serious sentences Justice Group will consider that an outstation placement will improve the chances that the court will be able to avoid or limit actual incarceration.

For an outstation placement the following criteria must be met.

The offender must be welcome at the outstation.

The offender must be willing to go the outstation.

Justice Group need sufficient resources to support the outstation. For our Domestic Violence Prevention Programme we have the resources to support the outstations. This is a very modest amount, it appears to cost on average about \$25 per week per person or \$1250 per person per year. We do not have funding from DJAG to do this.

May Kepple JP OAM Chairperson

R.T. Gardiner Co-ordinator