



WESTERN SYDNEY  
UNIVERSITY



WESTERN SYDNEY  
UNIVERSITY



Community Justice in Australia  
Professor Brian Stout

# Community Justice in Australia

- **What does it mean to promote justice?**
- **How can the community support responses to offending behaviour?**
- **What responses to offending are required in the context of Australia?**

# What Does it Mean to Promote Justice?



# What Does it Mean to Promote Justice

- Community justice requires wider conception of justice than what is done by criminal justice system
- Justice does not simply mean ‘harsh punishment’
- Legitimacy and rule of law are crucial aspects of justice

## What Does it Mean to Promote Justice?

- Differential representation of some groups is a crucial issue of justice
- Justice relates to fairness, equality and our obligations to others
- Justice as the 'common good' is probably most relevant to community justice

# What is a Community?



# What is a community?

- Term used in a variety of ways but implies connection and support
- Common ways to use term include disintegrated, divided, virtual, gated, communities of choice
- Individuals can have own communities supporting them in living their conception of the good life

## Does everyone in Australia belong to a community?

*“Indigenous young people are represented as belonging to a community, this is rarely the case for non-Indigenous young people, who are not represented as belonging to any community beyond their ‘community of care’” (Richards, 2014: 3)*

## Community Justice as Engagement

*“I think one definition of community justice would be that you take your direction as an agency from what the community wants from its public services.”*

(Senior and Nellis, 2013: 43)

## Australia

- **Modern Australia built on a penal strategy of transportation**
- **Impact of settlement/ invasion on Aboriginal people still felt**
- **Criminal Justice system impacts on Aboriginal people**
- **Federal system with considerable differences between states**

## Recent events in Australian criminal justice: Parole laws



## Recent events in Australian criminal justice: Don Dale



# Recent events in Australian criminal justice: Royal Commission on Child Abuse



## How do we operationalise Community Justice in Australia?

- Values
- Restorative Justice
- Alternative to penal populism
- Diversity
- Inclusive of all
- Promotes desistance
- Invests resources

# Community Justice Values



## Community Justice Values

- Working in criminal justice is a moral enterprise
- Traditional social work values not sufficient, don't acknowledge real harm caused by crime
- Community justice acknowledges common humanity and that all have capacity for great good and great evil

## Community Justice Values in Australia

- Values statements are utilised in Australia, particularly in state corrections
- Professional bodies, such as the AASW will have codes of ethics
- Arguments based on human rights and social justice will have traction in promoting community justice
- The Values debate is led by NGOs and campaigning bodies





# Restorative Justice



# Restorative Justice

- RJ approaches bring offenders, victims and community together to resolve crime
- Parties to dispute take lead in resolving it, rather than passing responsibility to state
- Ever more popular approach, particularly for young, minor, first-time offenders across the world

## Restorative Justice in Australia

- Strong claims for Restorative Justice roots in Australia, New Zealand and the Pacific
- Very similar ethos and values in Restorative Justice and Community Justice
- Restorative Justice is reactive, focused on disputes
- Community Justice is proactive, wider focus on community as a whole

## Restorative Justice in Australia

- Roots of Restorative Justice in Indigenous communities make it an appropriate approach
- There can be a risk of missing wider issues of social justice, inclusion and participation
- RJ in Aboriginal Communities should not be narrow conceptions of individual crime
- As elsewhere, RJ discourse in Australia has brought attention to services for victims
- Victims Commissioners are appointed in most states and territories

# Victims Commissioners provide information to the public



# Alternative to Penal Populism



## Alternative to Penal Populism

- Dominant popular theme is that ever harsher punishment and more exclusion is needed
- Governments base policy on this perception of public opinion not research or evidence
- Community justice can provide an alternative discourse of inclusion

## Penal Populism

- Mandatory sentencing; minimum sentencing; standard non-parole periods; sex offender registration schemes; increased prison population
- In Australia popular debate does not have to lead to punitive responses, for example in lock-out laws

## Recent events in Australian criminal justice: Lock out laws





# Diversity



# Diversity

- Community Justice is concerned with how diverse groups are dealt with in the criminal justice system
- Diversity can relate to Aboriginal status, race, religion, gender, age, mental health
- Inclusive values draw attention to any instances of differential treatment

## Diversity in Australian Criminal Justice

- Complex roots both historically and geographically in Australia
- Care needs to be taken in treating groups as homogenous entities
- Community is not something that should be assumed to exist, it is a state to aspire to

# Parramatta Female Factory and Girls Home



# Inclusive of All



## Over-representation of Aboriginal people in the Criminal Justice System

- New South Wales imprisons Aboriginal people at 11 times the rate of non-Aboriginal people
- 24% of the prison population is Aboriginal (BOCSAR figures)
- Variety of reasons suggested for this, with a variety of solutions, inside and outside criminal justice system

## Bifurcation

- Bifurcation refers to the practice of treating one group of offenders leniently while treating another group very harshly
- Community justice must engage with issues of risk and public protection to avoid simply devising solutions for minor offenders

## Bifurcation in Australia

- Bifurcation: treating one group leniently, another group harshly
- Community justice must engage with public protection and high risk
- Diversion schemes are common and present in all states
- Serious or persistent young offenders are dealt with by way of detention
- Government is able to claim simultaneously that it is being tough on crime and responding creatively to young people in need

# Aboriginal Over-representation in the Criminal Justice System



# Promotes Desistance



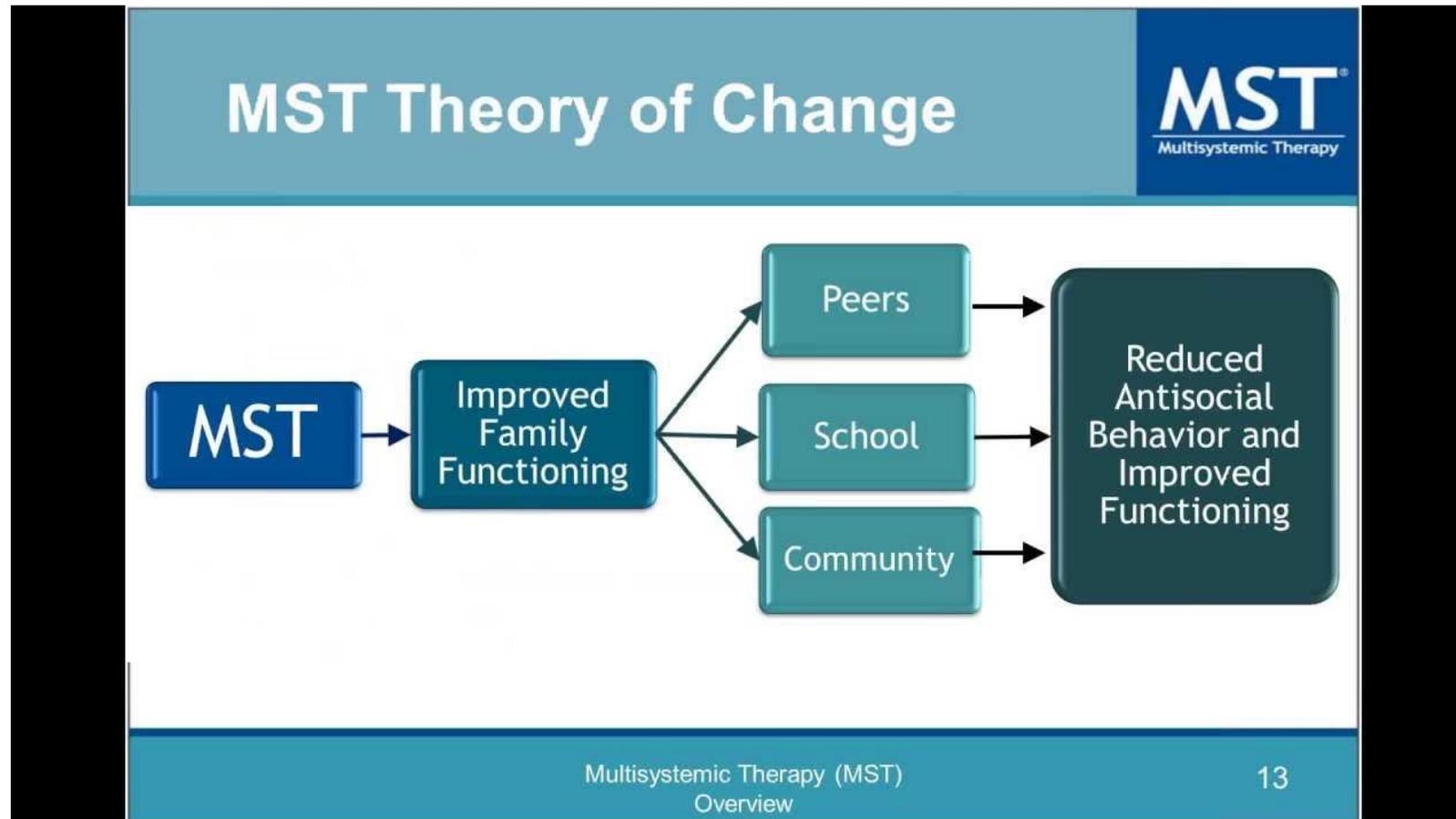
## Desistance

- How can we work with offenders to help them move away from offending?
- Community is those who can support an individual in pathway to desistance.

## Promoting Desistance in Australia

- My research into interventions with young people in NSW found that family work could help with school attendance, family relationships, mental health
- Interventions may not have short-term impact on offending but can build long-term desistance

# Intensive Supervision Program: Juvenile Justice, New South Wales



# Justice Reinvestment



# Justice Reinvestment

- Is there a better way to deliver justice?
- Instead of spending money on incarcerating offenders, could it be better spent earlier, on preventative approaches?
- Justice reinvestment is an explicitly economic approach to investing in communities

## Justice Reinvestment

- Identifying potential savings in the future is not always straightforward
- Reinvesting in communities, in practice, can mean investing in one area of the criminal justice system rather than another
- Has been some resistance in investing directly into Aboriginal communities

*David Brown, Chris Cunneen, Melanie Schwartz, Julie Stubbs and Courtney Young (2016),  
'Justice Reinvestment: Winding back Imprisonment', Palgrave Macmillan.*

# Justice Reinvestment in Australia



# Promotion of Community Justice in Australia

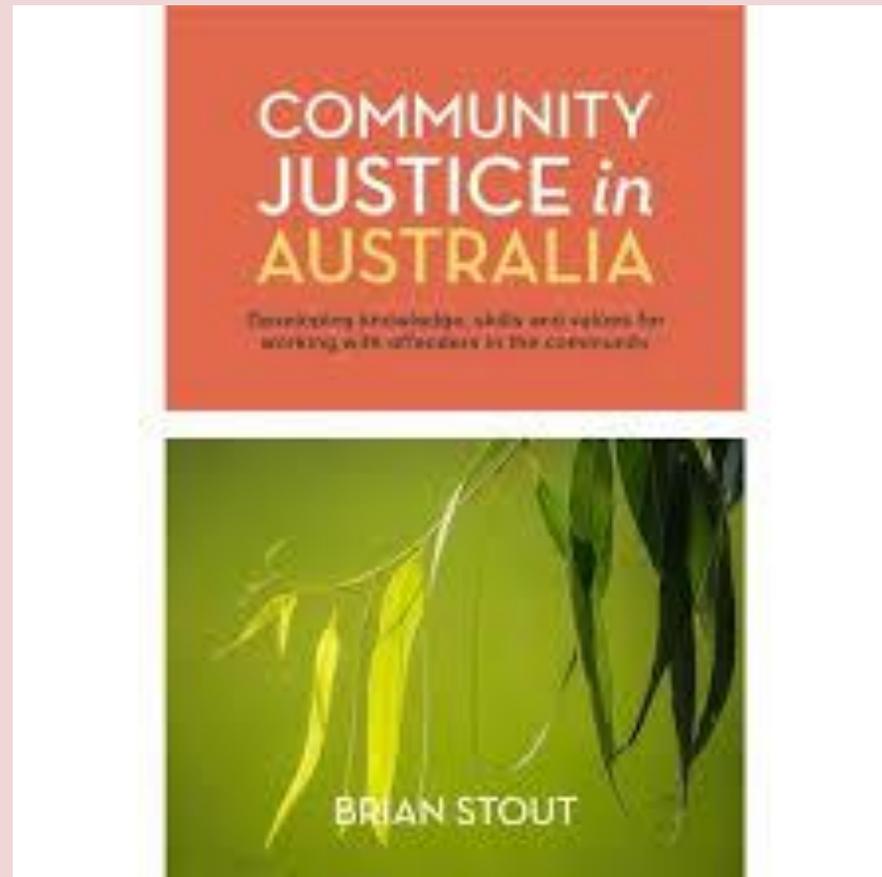
**Promotion of values**

**Engagement with community**

**Language of inclusivity, not exclusivity**

**Community justice is not just about the criminal justice system**

# Stout, B. (2017) *Community Justice in Australia*, Sydney: Allen and Unwin





WESTERN SYDNEY  
UNIVERSITY

