

June Oscar AO, CEO Marninwarntikura Fitzroy Women's Resource Centre

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**Aboriginal Trauma, Foetal Alcohol Spectrum Disorder and the juvenile justice system: a
volatile cocktail**

Good evening

I acknowledge the traditional owners of the land we meet on today and I pay my respects to the elders of families both past and present and the generations to come. I also want to acknowledge and thank the organisers of this event... and a big thank you to Chris Ronalds for organising this presentation and inviting me here.

I would like to acknowledge my community in the Kimberley region of far north western Australia, the Bunuba, Gooniyandi, Walmajarri and Wangkatjungka people. I would further like to acknowledge the Marulu team members and our partners – The Telethon Institute for Child Health, The George Institute for Global Health, and the Discipline for Paediatrics and Child Health at the University of Sydney. I will come to an explanation of their wonderful work with us later.

I would like to give particular thanks to Lindsay Cane and her team at Royal Far West, a team that are very valued partners of ours and close friends.

I'm sure when any of you hear the phrase, often said with great conviction, that "I will be taking the law in to my own hands", you groan, take a deep breath and wait for the inevitable damning consequences. Well tonight, as I tell you the story of how, many women

in the Fitzroy Valley came together and took the law into our own hands, you'll let out a sigh of relief.

Far from here, in the remote north of Western Australia, in the Fitzroy Valley, where I grew up and continue to work and live, I was involved in a small and immensely important revolution. We revolted to unite. To unite with legislators, to overcome our historical boundaries and amend the law so it would uphold our rights.

I want to begin with a necessary clause, for my defence in case I am held up against my pronouncements on the law tonight. I am no lawyer, but I am fully aware of the power of the law in upholding the rights of my people and protecting us from all forms of discrimination and harms, while enabling our freedoms and enhancing processes of self-determination. I know this because of the journey we are on as Indigenous people to be effectively incorporated and fully recognised in the legal and governance framework of this nation-state. The journey to incorporate our rights into domestic law, is one we've been on since colonisation.

It is this journey for recognition and acknowledgment within the judicial framework means, we as Aboriginal people have an intimate relationship with the law like few other populations in Australia. We understand the profound power of the law to affect change.

The legal apparatus of this nation has had such a severe intervention on our traditional societal formations that we've grown accustomed to opposing it. To seeing the law as our enemy. That is no surprise when we witness the horrors of Don Dale- institutionalised systemic abuse! Or when we reflect on 25 years of the Deaths in Custody Royal Commission and see how our interactions with the criminal justice system have only increased to devastating proportions.

We all know the statistics, since Don Dale and the announcement of a Royal Commission, the numbers have been said time and again. Aboriginal people as only 3% of the Australian population, are the most overrepresented peoples in the criminal justice system – since 2004 Aboriginal Australians in custody have increased by 88%. Once convicted for your first offence, for many, the lifelong cycle of re-incarceration is somewhat inevitable.

On all accounts this current state is unacceptable. The figures real, but unimaginable.

However, this speech today is not about lamenting the unacceptable. It is about bringing together the evidence, of what we know can work and acting on it together. It is about acting with a renewed vigour to unite communities, the social service sector, research institutions and the criminal justice system as one. A united approach that ensures evidence, program planning and processes of justice are informed by and inform those on the ground. This system would act cohesively. Founded on the principals that,

- every human being has a voice that needs to be heard,
- has rights and freedoms that must be upheld and protected,
- and is capable of determining a healthy and strong future when information and opportunities are available to them.

The question is how do we do this, how do we act as a cohesive system responding to the rights of individuals and the needs and strengths of families and communities? My focus today is on our legal framework, so this is where I'll begin. Firstly, can we see the law as a friend, a means to our safety, care and ultimately life-long success?

I know we can.

In the Fitzroy Valley, taking the law into our own hands, did not mean becoming the adjudicators. It meant feeling the law to grasp it's meaning, to *personalise* it, and make the system of justice accountable to us.

We know societal transformation is not possible if there are not real alternatives to incarceration. This means we need community based programs of rehabilitation alongside good education and meaningful employment.

In retitling the scales of justice in our favour we have to have a shared understanding of the societal harms we are experiencing, where they have come from and are working to overcome.

The Fitzroy Valley is essentially an Aboriginal domain. Three thousand people from 5 language groups live in today's 30 odd communities. Fitzroy Crossing is the only town and is the service hub for these communities. Like Indigenous people throughout Australia, we live with the inherited trauma from invasion and prolonged frontier conflict. In our case not that long ago; my grandparent's lifetime.

We lived as unpaid cattle station workers for 2 to 3 generations until thousands of Aboriginal people across northern and remote Australia were summarily evicted by the station masters when Australian law intervened to end the exploitative feudal era and imposed equal wages. Our people were thrown into reserves on the edges or concentrated makeshift camps.

Fitzroy Crossing's population grew from approximately 100 people to more than 2000 in a few short years.

Living conditions were deplorable. And amidst the peak of the Kimberley's population displacement turmoil, the State Government amended the Liquor Act to remove all restriction on Kimberley Aboriginal people's access to alcohol. It was done in the name of reforming discrimination laws but it happened without any engagement or planning with the people who would be affected most.

Since the 1970s the horrific consequences of alcohol on our community has worsened year after year.

Although we achieved great success and we have remained resilient building from the strengths of our remarkable heritage we still live within the context of trauma.

In the year 2005-6 the Fitzroy Valley Community had attended 50 funerals. This included 13 suicides. Many deaths were in young people and most were alcohol-related.

The State Coroner Alistair Hope concluded that: "Alcohol abuse is both a cause and a result of many problems for Aboriginal people in the Kimberley. The problems associated with alcohol abuse are the most obvious and the most pervasive."

By 2007 the grog crisis could no longer be ignored.

That's when we as the women of the Fitzroy Valley stepped in. We could no longer act in crisis. We had to act with care, consideration and foresight for the health and wellbeing of future generations. Instead of blaming legal authorities, we calmly reflected on the purpose of the law. We did something rarely done. We overcome historical distrust and animosity and worked with the police with a shared genuine concern for our people's welfare.

We rallied to action. With the support of the Police Commissioner our community intervention used the liquor licensing act to respond to our community needs. The state

police stood beside us every step of the way. The result was, instead of the law privileging the vested interests of the liquor industry it now privileges our human rights and in the process has improved relationships with the very institutions designed to protect our society and uphold the law.

The restrictions have now been in place for 9 years. It has made the Valley a calmer more peaceful place in which to plan for a society which presents real alternatives to imprisonment.

In the Fitzroy Valley we are already putting the building blocks in place for a community restoration that meets our regional needs.

There is no other place to look when prioritising human rights than our youth. We knew from witness and statistical accounts that drinking had taken a huge toll on our children. We have one of the highest youth suicide rates in the world and one of the highest youth conviction rates in the country. Our greatest concern was how alcohol had become a contributing factor in producing these life ending and damaging statistics.

In 2009, after a long period of community consultation, we embarked on Australia's first prevalence study of Fetal Alcohol Spectrum Disorders. Fetal Alcohol Spectrum Disorders (or FASD) are a group of conditions characterised by brain injury that is caused by prenatal exposure to alcohol. Some of these kids with brain injury look quite normal, but struggle in their development. FASD is lifelong. FASD is 100% preventable.

We found that 1 in 5 children (19%) had one of the fetal alcohol spectrum disorders – one of the highest prevalence rates in the world.

What this study shows is that many children in Fitzroy have problems with memory, with learning and academic achievement. Some have problems with writing and fine motor tasks, attention deficits and emotional outbursts when confronted with authority. Children as young as seven had mental health issues, including self-harm, talk of suicide and use of drugs and alcohol. These children are vulnerable to sexual abuse and family and domestic violence and many have had contact with child protection services. Overall the key problem for teachers and care givers is the difficult behaviors that will predispose these children to school failure, contact with juvenile justice and risk of incarceration.

Five years on we see children from our cohort involved in petty crime, drug use and inappropriate sexual behavior.

Is this where our engagement with the criminal justice system begins?

Trauma is clearly leaving its imprint – not just in our emotional responses and reactions to life when we are in pain and grief, but in our very neurological and physiological makeup. It is transmitted and it transforms societies from one generation to the next, and unfortunately the consequences, without adequate support structures in place, see many of our people behind bars, unnecessarily.

This is our present reality.

Now, with the evidence we can act. This is where we encounter the problem. The problem is not with recognising and knowing how to respond to intergenerational trauma, early life trauma and FASD and all associated harms. The problem is that our systems are wholly

inadequate in dealing with what needs to be done. We are funded to operate in sectors and silos.

It is this that we are working to rectify. Our strategic approach is cross-disciplinary and collaborative.

An example of this is the development of our Marulu Strategy – a multi-disciplinary service provision strategy, uniting community, research institutes and other organisations - to provide innovative, ongoing responses to the reality of FASD.

We have initiated a range of interventions, school based activities, parent support programs, and educational resources for teachers learning how to respond and work with children with FASD. We are wanting to develop a similar resource for police and the criminal justice system as a whole. We are doing this by working with people from a range of backgrounds, because we cannot provide relevant resources, or intervene in a positive way if we do not bring people together from varied sectors. As we build on this approach we are also shifting who has the power in this system, rather than decisions lying with the bureaucrats and the service providers we are giving choice to people on the ground. At the centre of our system of support is the child, and our families. We are not here to impose on them but respond to their strengths and build capacities.

In creating this new model we are commencing an exciting partnership with Royal Far West based in Manly where we are learning how clinicians work together in an integrated approach to care for a child based on a full understanding of that child's circumstances and how to support the family. We are also learning much from their trauma informed approach to work as we embark on our own journey of becoming a trauma informed organisation and community of shared practice.

Lindsay Cane the CEO of Royal Far West is in the audience tonight. It is people such as Lindsay, and my close friend and initiator of the FASD prevalence study Professor Elizabeth Elliot also based in Sydney, amongst other great minds and spirits, who are branching out and changing the way we operate, changing the system. It takes courage to move beyond your operational remit, to say, like Lindsay, let's work together, across disciplines, across sectors, across distance. To say we have the clinicians, we have the trauma informed evidence, let's apply it to your setting, and work together to implement the right community led process.

This is challenging, and exciting work.

Apart from the wonderful determination and conviction of our partners, and that includes many people in government, the system we operate in means our work is vulnerable when it needs to be secure and stable.

As a follow up to the Don Dale four corners episode, there was a four corners program on Bourke and its whole of community justice reinvestment strategy. It was based on many of the principles of engagement across sectors that I've spoken of tonight. It looks at redirecting funds from incarceration to community programs and local methods of rehabilitation.

Bourke, similar to the Fitzroy Valley is taking steps to change the system. These examples of how communities can function and work within the law to achieve freedoms, not to have them denied through incarceration are our solutions for a better future.

We have the evidence in the Fitzroy Valley to inform us of the best ways to target investment for the greatest impact. For instance, we could work with the police force and

magistrates to recognise and respond appropriately to those with FASD and other complex needs. The block in our development journey comes when we are not resourced to deliver this training. The block is there when we can clearly imagine the alternative program that a magistrate can refer a child to other than detention, but we are not funding that program to exist. The block comes when the child with complex needs requires particular clinical support but that support is based thousands of kilometres away. Justice reinvestment provides a funding model that can properly resource the essential infrastructure for communities on the ground to grow initiatives such as ours.

The future we want to invest in has a firm commitment to upholding the rights of our children alive today and those who will be born. Unfortunately, our investments are vulnerable to the whims of political policies. The system we operate in means our work is vulnerable when it needs to be secure and stable. Our work has to move beyond politics.

Although the Australian Government are signatories to many United Nation conventions few, such as the convention on the rights of the child or the rights of Indigenous peoples have been incorporated into domestic legislation. When it comes to funding our basic rights governments are not legally obliged to respond.

To act then we must have people willing to work alongside us who understand the sanctity of the law and the need to protect our rights. Some of the most important people are you, all those involved in the legal apparatus of this nation, who collectively hold the knowledge of justice. When we work together we can redefine the system, we can understand how the law can uphold our rights and we can share justice across the community. So justice does not just have to be decided on at the point of crisis, in a court, when the damage is already done.

Today, for many Aboriginal families and communities the law is ultimately a drive to regain the freedoms that have been lost. As we work toward recapturing our freedoms we are establishing a robust legal framework to protect us and care for us. A framework grounded in a belief that incarceration is always and necessarily a last resort.

We know what is needed. We need to work on initiatives that will respond to the evidence.

So we can heal the wounds. So we can end transmitted trauma. So we know that in generations to come our society will be restored to full health wellbeing and vibrancy.

Committing to this journey is how justice will be served.