

# INDIGENOUS LAW BULLETIN

31 July 2013

## Media Release

### **New Research: is there a link between genetics and crime?**

In new research discussed in the *Indigenous Law Bulletin* ('ILB'), University of Sydney researcher and PhD candidate Allan McCay has raised the question of whether links between genetic predisposition, social environments and criminal behaviour can have an effect on sentencing in Australia.

In his article titled 'The Fernando Principles and Genetic Vulnerabilities to the Crimogenic Effects of Social Environments', McCay examines the *Fernando Principles* which concern the mitigating effect of certain social circumstances in respect of the sentencing of Aboriginal offenders.

McCay argues that "an offender's genetic constitution is a factor that is unchosen, and one that may exacerbate any difficulties created by the social environment."

"Research in behavioural genetics is now starting to suggest that, for some but not all, there is a genetic susceptibility to the predisposing effects of one's local community environment," said McCay.

McCay is at pains to point out that his research "does not suggest that Aboriginal people have a particular genetic susceptibility to crime, but that some Aboriginal people (like some people who are not Aboriginal) have a genetic vulnerability to the crimogenic effects of certain social circumstances (perhaps those prevalent in *Fernando* environments)."

"There is no suggestion in the research discussed here, that genetic vulnerability is especially prevalent among Aboriginal people. The significance for some Aboriginal people is that *Fernando* environments may trigger a genetic vulnerability that may not have been triggered in different social circumstances," said McCay.

McCay notes that the US have managed to use issues of genetic predisposition in sentencing matters, but it is not clear whether an Australian judge can be convinced that it is relevant, admissible and reliable. "It remains to be seen how the Australian courts will react," said McCay.

McCay's research raises the question of what punishment is really about; "giving offenders what they deserve or preventing undesirable consequences for others."

"[if] we think that only the guilty should be punished and that they should not be punished in excess of what they deserve, then genetic vulnerability is morally significant. It is for this reason that it seems important to consider behavioural genetics in sentencing," said McCay.

*Allan McCay teaches at the University of Sydney Foundation Program and is a PhD candidate at the Sydney Law School.*

To access a copy of Allan McCay's article visit <http://www.ilc.unsw.edu.au/> or click here [Feature Article](#)

Contact: Robert McCreery, Editor, [ilb@unsw.edu.au](mailto:ilb@unsw.edu.au), + 61 (2) 9385 2256