RESTORING ORDER

November 2009

Crime prevention, policing and local justice in Queensland's Indigenous communities

CRIME AND MISCONDUCT COMMISSION

QUEENSLAND

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CMC vision:

To be a powerful agent for protecting Queenslanders from major crime and promoting a trustworthy public sector.

CMC mission:

To combat crime and improve public sector integrity.

We wish to advise Indigenous readers that this publication contains references to the names of deceased persons. Where appropriate, we have sought permission from relatives to use the names.

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Dear Sirs

In accordance with section 69 of the *Crime and Misconduct Act 2001*, the Crime and Misconduct Commission hereby furnishes to each of you its report *Restoring order: crime prevention, policing and local justice in Queensland's Indigenous communities*.
The Commission has adopted the report.

Yours faithfully

ROBERT NEEDHAM
Chairperson

FOREWORD

It has been both a good time and a difficult time for the CMC to consider the issues associated with policing, crime and justice in Queensland's Indigenous communities.

The period of our inquiry has been one of immense change in the Australian Government and Queensland Government policy approaches in Indigenous affairs generally. It has been, quite literally, difficult to keep up. We have been very conscious throughout this inquiry of the number of previous reports in this area, the amount of government effort and resources already devoted to these problems, and the number of initiatives announced in recent years.

Our inquiry was timely in that it is almost 20 years on from the landmark Royal Commission into Aboriginal Deaths in Custody. We are pleased to be able to say that police practices have clearly changed for the better, particularly in terms of care for Indigenous people in watch-house detention.

Nonetheless, the relationship between police and Queensland's Indigenous communities remains delicately balanced. The crime and violence problems in these communities are well known, and police are often operating at the 'pointy end' of conflict and interpersonal violence between members of these communities. The police role in these situations is both difficult and crucially important — if it is performed poorly the police in these communities can actually make problems worse rather than better. We have seen what happens when tensions are seriously inflamed and that a wide range of events can trigger a crisis in relations with police.

Policing in our Indigenous communities must continue to improve. We must take further steps forward if crime and violence problems in these communities are to be addressed and Indigenous overrepresentation in the criminal justice system reduced.

In undertaking this inquiry, it would have been fruitless for us to have taken a narrow view and to have looked at policing issues in isolation from the underlying problems which become the concerns of police. Police alone can never solve the problems facing Queensland's Indigenous communities. Our report will show that success in this area — restoration of order and a better life for Indigenous people — will depend on striking the right balance between research, policy and innovation; between government responsibility and community action; between police law enforcement and other crime prevention strategies.

After the time and effort the CMC has invested in this task, we believe that we have an obligation to come back and see if progress is indeed being made. We have proposed that we carry out a limited review in 2011 and a more comprehensive review in 2013.

We have set out in this inquiry to assist in the development of evidence-based policy. However, even after careful consideration of the issues, it is clear that knowledge alone does not hold the promise of a miracle cure — there are no easy answers or we would not be in the position of producing another report after so many that have come before. But, while difficult, the task before communities, police and governments should not be seen as overwhelming or overcomplicated. It is my firm view that the task that lies ahead is achievable.

Robert Needham
Chairperson

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ACKNOWLEDGMENTS

We acknowledge that this publication contains references to the names of deceased persons. Where appropriate, the Crime and Misconduct Commission (CMC) has respectfully observed Indigenous protocol and sought permission from relatives to use the names mentioned; however, we apologise for any distress this may cause.

We are grateful to all those people and organisations who took the time to provide their thoughts in consultations and submissions. In particular, our thanks go to community members and to police who contributed to this inquiry.

We have been impressed by many community members with whom we discussed policing and related issues during the course of this inquiry. Given the huge demands that government workers put on communities to 'consult', and the position that community members could justifiably have taken that 'we've said it all before' on these issues, we appreciated that people again invested their time, energy and hope in engaging with the inquiry process.

Throughout this inquiry, we have also been impressed by the willingness of police officers to discuss the issues openly and productively. There has been a high level of cooperation from the Queensland Police Service (QPS) generally and from individual officers involved in policing Queensland's Indigenous communities. The Commissioner of Police, Bob Atkinson, certainly encouraged this approach from officers and also personally showed great support for our inquiry in a number of ways. For example, the Commissioner provided support so that we could conduct a series of focus groups in 2009 with officers-in-charge of stations in Queensland's Indigenous communities and other senior officers, to test some of our ideas about possible recommendations, including the notion of creating a new structure within the QPS to provide dedicated, high-level leadership on Indigenous policing matters. These discussions were very useful and we are grateful for the Commissioner's assistance.

A great number of other individuals and organisations have also assisted us. We conducted a public forum in Cairns in October 2007 and many people gave up their time to attend and to speak at the forum. Pauline Peel, the former Deputy Director-General of the Department of Communities, and Noel Pearson, Director of the Cape York Institute for Policy and Leadership, have given their time to talk with us on a number of occasions and these discussions proved both challenging and productive.

Of course, the views contained in this report are our own and any errors must be attributed to us.

We would like to make a special acknowledgment of one member of the CMC inquiry project team, Daniel Abednego. Dan was the Torres Strait Islander Liaison Officer at the CMC from 1993 to 2007. He was a key person in providing the introductions within Queensland's Indigenous communities for CMC staff carrying out the community consultations for this inquiry, and to him this inquiry represented the culmination of many years of effort and work in the areas relating to policing Indigenous people. Sadly, Dan died suddenly during the course of the inquiry and was not able to see its conclusion; we hope that this report does justice to his memory and to his work in this area over many years.

This report was prepared by staff of Research and Prevention and the Commission. Many people made valuable contributions to the report.

Zoe Ellerman was the principal author of the report, with assistance provided from Mark Pathe and Susan Johnson.

Lauren Hancock provided a great deal of research assistance during the report writing. Dr Margot Legosz, Angela Carr and Melissa Sum were primarily responsible for data analysis.

The project manager for the inquiry was Mark Pathe and he conducted the initial consultations together with other project team members Dennis Budz, Daniel Abednego, Cheryal Kyle, Lisa Florence, Trudi Broderick and David Jones.

LIST OF ABBREVIATIONS

ABS	Australian Bureau of Statistics
ACPO	Aboriginal Community Police Officer (NT)
AIC	Australian Institute of Criminology
AIHW	Australian Institute of Health and Welfare
AMP	Alcohol Management Plan
ANCO	Australian National Classification of Offences
ATSIC	Aboriginal and Torres Strait Islander Commission
ATSILS	Aboriginal and Torres Strait Islander Legal Services
ATSIP	Aboriginal and Torres Strait Islander Partnerships (now ATSIS)
ATSIS	Aboriginal and Torres Strait Islander Services
CAP	Competency Acquisition Program (a QPS training program)
CAPE	Community Activity Programs through Education
CAU	Cultural Advisory Unit (QPS)
CCLO	Cross Cultural Liaison Officer
CCTV	closed-circuit television
CDEP	Community Development Employment Projects
CDMA	code division multiple access
CJC	Criminal Justice Commission
CJGs	community justice groups
CMC	Crime and Misconduct Commission
COAG	Council of Australian Governments
CRISP	Crime Reporting Information System for Police
CYIPL	Cape York Institute for Policy and Leadership
DATSIP	Department of Aboriginal and Torres Strait Islander Policy (now ATSIS)
DATSIPD	Department of Aboriginal and Torres Strait Islander Policy and Development (now ATSIS)
DICMU	Deaths in Custody Monitoring Unit
DOC	Department of Communities
DOGIT	Deed of Grant in Trust
FAE	fetal alcohol effects
FAS	fetal alcohol syndrome
FASD	fetal alcohol spectrum disorder
FRC	Family Responsibilities Commission
HREOC	Human Rights and Equal Opportunity Commission
ICOs	intensive correction orders
ICPCGs	Indigenous Community Policing Consultative Groups
IPPC	Indigenous Policing Partnership Command (proposed QPS command)
JAG	Department of Justice and Attorney-General
JEP	Justice Entry Program
JP	Justice of the Peace

LAQ	Legal Aid Queensland
LIPA	Local Indigenous Partnership Agreement
LIPs	Local Implementation Plans
MCMC	Meeting Challenges, Making Choices
NPA	Northern Peninsula Area
ODPP	Office of the Director of Public Prosecutions
OIC	officer-in-charge
OPM	Operational Procedures Manual (QPS)
OPR	Operational Performance Review (QPS)
PCYC	Police–Citizens Youth Club
PLO	Police Liaison Officer
POP	problem-oriented policing
POPP	Problem-Oriented and Partnership Policing (QPS framework)
PQ	Partnerships Queensland
PSRT	Public Safety Response Team
QATSIP	Queensland Aboriginal and Torres Strait Islander Police
QCMP	Queensland Community Mentoring Program (Department of Education)
QCS	Queensland Corrective Services
QPRIME	Queensland Police Records and Information Management Exchange
QPS	Queensland Police Service
QUAILSS	Queensland Aboriginal and Islander Legal Services Secretariat
RCIADIC	Royal Commission into Aboriginal Deaths in Custody
SAPol	South Australia Police
SARA	Scanning Analysis Response Assessment
SCRGSP	Steering Committee for the Review of Government Service Provision
SERT	Specialist Emergency Response Team
SPER	State Penalties Enforcement Register
SRAs	Shared Responsibility Agreements
TSRA	Torres Strait Regional Authority

SUMMARY

Part 1: Background

This part of the report provides the background picture for examination of our three terms of reference.

The inquiry: terms of reference and scope

There were two catalysts for our Inquiry. The first was the aftermath of events that followed the death of Cameron Doomadgee (Mulrunji) in the police watch-house on Palm Island, the riots and the other controversy that has followed. The second was the rioting against police that occurred in Aurukun in January 2007 after allegations were made by a man that he had been assaulted by police during his detention in the watch-house.

In the wake of those events, in February 2007 the Government of Queensland asked the Crime and Misconduct Commission to examine issues relating to policing in Queensland's Indigenous communities and make recommendations with respect to three terms of reference:

1. Possible changes to existing police policy and procedure that would result in improved relations between the Queensland Police Service (QPS) and Queensland's Indigenous communities.
2. Current practices relating to detention in police custody in remote communities, including the monitoring of detainees in watch-houses and other police facilities in Queensland's Indigenous communities and the possible involvement of community justice groups or other civilians in the monitoring of detainees.
3. The optimal use of existing and future state resources available to deliver criminal justice services in Queensland's Indigenous communities.

We were also asked to have particular regard to the report of the Royal Commission into Aboriginal Deaths in Custody, the recommendations of the Acting State Coroner, Christine Clements in the Mulrunji inquest, and the practical circumstances of policing Queensland's Indigenous communities.

The scope of our Inquiry was therefore very broad, particularly in terms of dealing with our first and third terms of reference.

Not all of Queensland's Indigenous communities were included within our terms of reference, although for convenience we have used the phrase 'Queensland's Indigenous communities' throughout this report to describe those communities within the scope of our inquiry.

These communities historically had their own local councils and in the past have been referred to as 'DOGIT' communities in reference to the system of land title 'Deed of Grant in Trust' that applied to most of Queensland's former missions or reserve communities where Indigenous local councils were established. They include 17 Aboriginal communities and 18 communities in the Torres Strait Islands, as well as the two Torres Strait Islander communities of Seisia and Bamaga which are located on the mainland in the Northern Peninsula Area of Cape York.

Other predominantly Indigenous communities in Queensland such as Mossman Gorge, Coen, Laura and Normanton were not within our terms of reference although many of the issues highlighted in this report will be of relevance to those places also.

Consultations and other evidence

In conducting our inquiry, we have sought to give fairly comprehensive consideration to the difficult issues relating to policing, crime and the criminal justice system in Queensland's Indigenous communities. In particular, we have tried to listen carefully to the views provided through our community consultations and consultations with police. Although the views expressed to the inquiry were by no means uniform, clear and consistent themes did emerge across stakeholder groups, not just within them. For example, police and Indigenous people often raised the same key issues, such as concern about the high levels of alcohol-related violence and the need for the communities themselves to be centrally engaged in developing and implementing solutions to their problems. These key issues were raised again and again across different communities and from different cross-sections of the populations.

We also made efforts to inform our arguments and recommendations through evidence in so far as it is possible, including through analysis of relevant data relating to Queensland's Indigenous communities and consideration of other research.

20 years of Indigenous policy and initiatives: a lot of effort but little improvement

This inquiry is another in a long line of reviews and reports looking at issues affecting Indigenous communities. There can be no doubt that enormous sums of money, and a huge amount of bureaucratic effort, have been devoted to addressing Indigenous disadvantage over the past 20 years, including in the area of crime and justice. There have quite literally been thousands of recommendations already made to governments regarding how to deal with the problems faced by Indigenous people. Many of the reviews and reports are critical of the failure to implement those that have gone before.

Key reports about policing, crime and justice issues include most importantly the *National report: Royal Commission into Aboriginal Deaths in Custody* (Johnston 1991). The Royal Commission into Aboriginal Deaths in Custody remains a very powerful influence on issues of criminal justice and policing for Indigenous people. Its legacy includes criminal justice reforms such as increasing diversion of people away from the criminal justice system and greater safety for watch-house detainees. Nevertheless, over 18 years after the Royal Commission, its most fundamental aim of bringing about a reduction of Indigenous overrepresentation in custody has not yet been achieved. This is probably the result of both the poor performance of governments in properly implementing its recommendations, and the fact that the Royal Commission's legacy in terms of government policy and programs has been a focus on criminal justice system reforms. The subsequent development of government policy and programs reflects a great (and, in our view, misplaced) faith in the ability of certain criminal justice system initiatives to reduce Indigenous overrepresentation in the criminal justice system.

Since the Royal Commission, the *Aboriginal and Torres Strait Islander Women's Task Force on Violence* report and the *Cape York Justice Study* report (Fitzgerald 2001) have led to an increased recognition of Indigenous people as victims of crime rather than just offenders. There has also been a growing recognition that, to reduce Indigenous overrepresentation in the criminal justice system, more emphasis needs to be placed on improving community safety and developing community-based crime prevention and early intervention strategies that address the underlying causes of crime, particularly alcohol. The most substantial reform introduced by the Queensland Government's response to the Cape York Justice Study — and one that does seek to address underlying causes of crime — was the implementation of Alcohol Management Plans to first restrict the availability of alcohol in 19 Indigenous communities, and later to close the canteens and taverns in these communities and to make them 'as dry as possible'.

Broad lessons from past approaches

While there has not been an obvious sense of progress from the frenetic level of government activity over the last two decades, some lessons can be learnt, and improvements in a number of areas can be identified.

First, there has rightly been increasing recognition that effective partnerships and whole-of-government coordination are essential for success. Despite this, partnerships and whole-of-government coordination remain more of a goal than a reality. Various efforts show that governments continue to struggle to engage effectively with Indigenous people and communities; and that government action is still often characterised by a 'silo' mentality. Government workers are often frustrated by the lack of community response to what, to Indigenous eyes, is a veritable 'revolving door' of government programs, initiatives and workers' 'fly-in, fly-out' approaches to these communities. The lesson that must be learnt is that partnerships and whole-of-government coordination are difficult; simply 'announcing it', 'does not make it so'.

Second, monitoring and performance measurement frameworks across Indigenous affairs have been improved; in particular, the Queensland Government's Quarterly Reports, which provide data at an individual community level for many of Queensland's Indigenous communities, are a powerful tool for informing policy and program development.

Third, despite obvious government effort at the policy formation and monitoring levels, it remains difficult to translate high-level policy into on-the-ground action and results. The development of local-level or subject-specific action plans to translate overarching policy into strategies for achieving on-the-ground results has rarely been achieved and we have not found any examples where the implementation of such local-level plans has been sustained. The lesson to be learnt is that governments must improve and sustain their approaches to planning with communities at the local level. Funding for strategies to be implemented in communities must also be provided more reliably over the longer term, rather than on a one-off or non-recurrent basis.

Fourth, the development of effective crime prevention strategies has often been treated by governments as a policy 'add on' and crime prevention has received less attention than other aspects of criminal justice system reform. This may reflect the fact that crime prevention is a poorly understood and complex area that necessarily requires a high degree of community engagement and sustained support from government, both of which are very difficult to achieve.

Fifth, in the past there has been a tendency for many reports and policy responses to have a homogenising effect. The Royal Commission, for example, considered criminal justice issues for Aboriginal people across Australia, and indeed these are issues of national importance. However, the danger in such an approach is that the solutions proposed to the complex crime and justice problems facing Indigenous people may overlook the fact that they must be tailored to the needs and capacities of people in particular places. It is important, for example, to draw a distinction between the problems and the approaches needed in urban and regional areas, and those of more remote Indigenous communities.

Our inquiry required us to focus on the distinct circumstances of Queensland's remote and other discrete Indigenous communities and to closely examine the policing and criminal justice issues specific to them.

Queensland's Indigenous communities: unique circumstances

These are small, mostly artificially created, 'communities', ranging in size from about 200 people to 2000 people. There are 17 Aboriginal communities, with a total population of about 14 800 people and there are 20 Torres Strait Islander communities with a population of about 8500. The Indigenous population profile in Queensland is quite distinct from that of the non-Indigenous population in that it has a far greater proportion of young people and is a rapidly growing population. The communities are mostly in remote or very remote locations, and many are inaccessible for varying periods during the wet season.

Queensland's Indigenous communities are unique for reasons related to their size, remoteness and history. Their strengths include their Indigenous culture and, for some, their geographical setting and surrounding environment. However, the scale of the challenges they face is undeniable, affecting both locals and those who come to work and live in the communities. The defining characteristics of these communities include:

- community governance and social control are often plagued by factional fighting, particularly along lines determined by family or clan membership
- although a small number of individuals are extremely active and provide leadership across a range of areas, community involvement and engagement in decision-making is generally low
- though they have a limited on-the-ground presence, federal and state governments play a far greater role in governance and social control in these communities than is usually the case elsewhere; the influence of effective local authority is often limited
- there is limited infrastructure and community-based service provision:
  - though there are some community-based education, health and police services, other services are largely provided on a 'fly-in, fly-out' basis
  - limited accommodation causes overcrowding and provides an obstacle to service provision
- the cost of living is very high
- opportunities for employment are very limited (and largely dominated by non-Indigenous people); most community members are welfare dependent.

Despite these ongoing challenges, Queensland's Indigenous communities have seen gradual improvements over time in terms of their access to regional centres and elsewhere, and the quality and availability of basic services have improved. However, it appears that community involvement in providing basic services to their own community has declined in the last 30 years.

Crime patterns in Queensland's Indigenous communities

Sadly, these Indigenous communities are also well known for their high levels of crime and violence. Indigenous communities are now frequently referred to as 'dysfunctional'; those with close connections to the communities have described them as in 'dire straits', and in 'crisis'. This 'descent into dysfunction', whereby 'once liveable and vibrant' communities have become 'disaster zones', has occurred rapidly but only recently in many Cape York communities (that is, within the last three decades). Conversely, communities further south, such as Palm Island, had well-established reputations for high levels of violence and crime predating Cape York communities by some decades (Sutton 2009, p. 3).

A large, entrenched and widespread crime problem

Using various sources of data, we have shown that:

- the rates of crime in all of Queensland's Indigenous communities are much higher than the state average; this is especially true for offences against the person (that is, violent offences) and for 'other' offences (including 'good order' or public order offences)
- there is no Indigenous community that does not have a substantial violence problem
- Aurukun, Mornington Island and Woorabinda have the highest level of offending; the Torres Strait Islands have the lowest level, yet this is still substantially higher than statewide rates
- high rates of offending in Indigenous communities have been consistent since at least 1995
- there has been no clear reduction in offence rates following the introduction of the Alcohol Management Plans.

Our analysis shows that these high levels of offending are not the result of 'overpolicing'. There are very high rates of serious offences such as homicide and grievous bodily harm and such offences are unlikely to be affected by police discretion or targeted police activities. In relation to the high rates of good order offences, we argue there is evidence to suggest that this is not the result of a general pattern of overpolicing of 'trivial' public disorder incidents such as offensive language or drunkenness alone. Rather we point to evidence that suggests the high levels of good order offences reflect the fact that police frequently respond to alcohol-related violence or threats of violence through the use of these charges.

We also present evidence that in Indigenous communities:

- Most offences against the person are committed by males (80%); this is consistent with statewide data.
- Most victims of offences against the person are females, especially young females; this appears to be more extreme in the Indigenous communities than across the state.
- A particularly high proportion of offences against property are committed by juveniles, especially within the 10–14 year age group; this is a substantially different profile from that shown for such offences across the state.
- A substantial proportion of offenders in Indigenous communities are repeat offenders. Our analysis of QPS watch-house data shows that a substantial proportion of individuals (unique offenders) were admitted to the watch-house more than once in the two-year period in each of the four locations reviewed. These results are consistent with what we heard during consultations and other research.
- Offending is widespread in these communities. The Western Cape York watch-house data provided evidence that the number of individuals (unique offenders) admitted to the watch-house over the two-year period represents about a quarter of the individuals in the communities of Pormpuraaw and Kowanyama, and about 44 per cent of the individuals in the community of Aurukun.

The impact of this level and pattern of crime in small communities such as these is devastating; doubtless it exacts a traumatic toll on all families and individuals within them.

It is our view that, in the face of such human cost, there must be continuing effort directed at understanding the differences between particular Indigenous communities in terms of their patterns of crime and violence; such an effort has begun in the presentation of community-level offence data in the Queensland Government's Quarterly Reports. Developing more accurate community-specific pictures of the crime patterns will allow better tailored, more targeted responses.

The underlying causes of crime

In order to prevent crime, we must understand its underlying causes. High quality criminological research has identified risk factors for delinquency and later criminal offending existing at the individual, family and environmental level:

- important individual risk factors that predict offending are low intelligence and attainment, personality and temperament, empathy and impulsiveness; high intelligence might be a protective factor
- the strongest family factor that predicts offending is usually criminal or antisocial parents, but large family size, poor parental supervision, parental conflict and disrupted families are also important predictors; good parental supervision is one of the best protective factors
- the strongest factors that predict offending at the environmental level are low socioeconomic status household, association with delinquent friends, attending high-delinquency-rate schools, and living in deprived areas; one of the best environmental protective factors is high academic focus in schools.

Recent empirical research has also shown that for Indigenous people high-risk alcohol consumption is the strongest correlate for violent victimisation, and for arrest, and that it remains so in the presence of controls for a range of other factors.

Although the causes of crime are complex, there is an obvious concentration of risk factors for involvement in crime, including those that tend to be associated with persistent offending, in Queensland's Indigenous communities.

It appears that community life has been badly affected by the 'lost generations' — that is, intergenerational effects have accumulated in families in these communities as the result of past policies of forced removals, alcohol dependence, excessive sickness and premature death, and the frequency with which people go to prison or into juvenile detention. Perhaps these adverse effects are felt most keenly in the area of parenting. Some aspects of traditional culture may also contribute to the high level of violence.

Knowledge about early risk factors for delinquency and later criminal offending indicates that, without successful interventions, the crime problem in Queensland's Indigenous communities may get worse in the future.

Conventional and local elements to respond to crime and violence

Queensland's Indigenous communities are currently equipped to respond to crime and violence through:

- the conventional criminal justice system (including QPS officers)
- local justice initiatives
- other services that sit outside the criminal justice system but are closely connected to it and that also try to deal with manifestations of the violence and dysfunction of Indigenous communities (for example, child protection services).

QPS officers

The QPS has been a central presence in many Queensland Indigenous communities across generations. Local police are very much at the front line of the response to crime and violence in these communities and it was clear from our consultations with police that they often felt alone and dismayed because of the lack of other services available to support them in their role.

For some time the QPS has been focused on increasing its permanent presence across Queensland's Indigenous communities:

- There are now sworn officers permanently in all of the Indigenous communities located on the mainland (with the exception of Napranum and Old Mapoon which are served by Weipa police), on Palm Island and on Mornington Island.
- However, most Torres Strait Islands communities remain without a permanent sworn police presence. In the Torres Strait, sworn police are located only on Thursday Island and the adjacent Horn Island.

There are more than 120 sworn police officers working in these communities. Police-to-population ratios in Queensland's Indigenous communities can be generally described as high and these ratios have increased over time. Despite the increases, some communities themselves continue to request further increases in police numbers.

Although substantial increases to QPS officer numbers in these locations have been announced and funded in recent years, often these positions are difficult to fill.

Other conventional criminal justice system services

As well as policing services, the conventional criminal justice 'system' typically includes youth justice services, courts, prosecution services, legal services, corrective services, and services provided by other support agencies.

Many of these conventional criminal justice services are provided on a limited, or 'fly-in, fly-out', basis in Queensland's Indigenous communities. For example:

- youth justice services are limited; youth justice conferencing is provided about six-monthly on a 'fly-in, fly-out' basis
- community-based corrective services, to provide supervision of community-based orders and community rehabilitation programs, have also been very limited; permanent probation and parole officers have been provided only in recent years in Doomadgee, Mornington Island, Normanton, Thursday Island, Weipa and Aurukun; permanent reporting offices exist in Woorabinda and on Palm Island.

Local justice components

Partly in order to fill the gaps in criminal justice service delivery in these locations, and to increase community ownership of and involvement in justice issues, a number of local community justice initiatives also operate in many of Queensland's Indigenous communities. For example:

- all communities have established a community justice group to perform a range of criminal justice related functions
- some communities also have local 'law and order' by-laws to deal with a limited number of crime and disorder issues
- some communities have established local JP Magistrates Courts to provide locally convened courts to promptly deal with by-law offences and other relatively less serious offences
- many communities have employed local people in policing roles; community members have been employed by councils as community police or by the QPS as Queensland Aboriginal and Torres Strait Islander Police (QATSIP), who have a role enforcing by-laws.

Other services

Other services that are key to responding to crime and violence in Indigenous communities include child protection services, alcohol and other treatment services and, in the four Welfare Reform Trial communities, the services provided as part of the trial, including through the operation of the Family Responsibilities Commission (FRC).

Child safety officers are generally not permanently present on the ground in Queensland's Indigenous communities. Such services continue to be provided mostly on a 'fly-in, fly-out' basis. The Queensland Government provides substantial funding to 'safe house' facilities that have been developed, or are developing, in Queensland's Indigenous communities to provide shelter for women and children affected by family violence.

Notwithstanding the introduction of alcohol restrictions in Indigenous communities since 2002, only very recently has there been substantial government funds allocated and a commitment made on the part of the Queensland Government to provide alcohol treatment services on the ground. In many communities this is yet to become a reality.

The Family Responsibilities Commission, though in many respects having similar goals to the criminal justice system and local justice initiatives, provides a radically different process — one focused on conferencing and case management, through which it attempts to restore social norms, particularly in regard to people's prime responsibility to nurture, protect and educate their children and those in their care.

Part 2: Term of reference 1: police–Indigenous relations

Our first term of reference requires us to consider relations with police in Queensland's Indigenous communities and to suggest ways in which they might be improved.

Understanding relations

People in all these communities clearly recognise the important role police play in enhancing community safety, as well as the importance of improving police–community relations to ensure effective policing.

The relationship between police and Queensland's Indigenous communities is highly variable, depending on place, time, recent events and the particular police officers involved. Generally, however, it could be described as fragile, tense and volatile. Such a description should come as no surprise to any Australian with awareness of events in our colonial history, or indeed of contemporary police-related events involving Indigenous people. Many members of Queensland's Indigenous communities continue to be distrustful and suspicious of police, and often carry an expectation that Indigenous people will be treated unjustly and violently by police.

Such is the state of the relationship that even apparently small misunderstandings or miscommunication may result in a crisis of confidence and trust in the police, and perhaps even lead to riotous behaviour. The risk of a major event, such as a death in police custody, triggering such a crisis in relations is magnified.

However, strong relations are possible; the inquiry heard that individual QPS officers have achieved this in a number of communities. The challenge for the QPS is to develop an organisational approach to improving relations with Queensland's Indigenous communities that will have a real effect on the way policing is carried out by all officers in these communities, regardless of the individual attributes of these officers. It is our firm belief that the 'tone must be set at the top' in this regard; in particular, it is vital that all OIC positions in Queensland's Indigenous communities be held by officers who can provide strong leadership in this area.

Sustained effort needed

Building relations based on trust and confidence between police and Indigenous communities is worthy of priority. The development of such relations should be a more important focus for the QPS and for the communities themselves. For example, in South Australia and the Northern Territory (jurisdictions with comparable Indigenous communities), the leaders within those police services, including at the Commissioner level, are personally and actively engaged with Indigenous communities and periodically visit them in order to improve relations. In Queensland, in contrast, the Police Commissioner has been a regular visitor to both Mornington Island and Wujal Wujal, for which he has been the nominated Queensland Government Champion, but high-level visits to the large number of Queensland's Indigenous communities are generally rare.

Mulrunji's death and subsequent events

Although such things are impossible to measure accurately, it is possible that the death of Mulrunji and its ongoing fallout have left what was already a sensitive relationship between police and Queensland's Indigenous communities in a more flammable state. Past events cannot be changed, but we do have choices about how we deal with the past as we move into the future. On Palm Island, despite the passage of almost five years, the justice processes associated with the death of Mulrunji are continuing and tensions remain. In so far as it is possible, the Queensland Government must give high priority to finalising all outstanding litigation and other proceedings regarding this matter. After all outstanding litigation has been finalised, perhaps the community, the Queensland Government and the police need to consider taking specific steps to repair some of the damage caused to relations. We cannot, however, dictate what these steps should be.

Causes of tension: overpolicing, underpolicing and high crime rates

Although there are many causes of tension in relations between Indigenous communities and police in Queensland's Indigenous communities, the notion that a large contribution is made by overpolicing, or policing that is perceived to be discriminatory, unfair or unduly oppressive, has been influential. At least since the Royal Commission, this notion forms the basis for much of the government's policy aiming to deal with Indigenous overrepresentation in the criminal justice system and to improve relations with police.

Undeniably incidents of overpolicing, when they do occur, have the potential to seriously inflame tensions. Public order policing, including the policing of alcohol restrictions in these communities, will remain one key area in which overpolicing may occur. Overall patterns of crime and arrest may have less impact on perceptions of overpolicing, and on relations, than a single highly publicised incident. For example, in the very high-profile case of Mulrunji, the fact that he was arrested for the most minor kind of public nuisance behaviour — offensive language only — may understandably lead people to believe that these communities are overpoliced, and to resent police.

However, we believe that the picture that emerges in Queensland's Indigenous communities from our inquiry appears to be substantially different from the general pattern noted at the time of the Royal Commission. In light of the strong community support for more policing rather than less, we cannot say that these communities are generally overpoliced (that is, community views frequently expressed concern about underpolicing). Community consultations strongly suggested to our inquiry that the policing response to alcohol-related violent and threatening behaviour is thought to be both necessary and desirable by most people in the communities.

The communities themselves were clearly and consistently focused on the desire for safe and peaceful communities; their message was one of wanting to see police being more responsive and doing more in order to enhance the safety of their communities. This is consistent with a history of concern being raised about an inadequate policing response being provided to the serious problems of crime and violence experienced in Queensland's Indigenous communities.

There is little evidence to allow us to test community perceptions of an inadequate police response. For example, there are no readily available data to indicate the frequency and timeliness of the police response to calls for assistance, and the appropriateness of this response in the circumstances. Despite these difficulties, the very fact that the perception is so widespread and is a key factor affecting relations would seem to suggest that action is warranted.

Ultimately, the tension in relations in these communities may be less a result of the nature and extent of policing itself, and more the result of the fact that these are high-crime communities and high levels of crime generate much of the 'heat' in relations with police.

It is our view that the most significant thing that can be done in the long term to improve relations with police, and to reduce Indigenous overrepresentation in the criminal justice system, is to reduce crime. Achieving this will require significant change; a much better focus on crime prevention is needed from police, other criminal justice system agencies, and other agencies more broadly, in the development of policy approaches. Indigenous people, organisations and communities must be central in this process.

How can 'more' policing be provided in a way that improves relations and reduces crime?

Communities' desire for police to do 'more' rather than less policing, to make their communities safer and more peaceful, should not be interpreted as a green light for heavy-handed policing. The challenge for police is to provide 'more' policing in a way that is unlikely to increase tensions, damage relationships with the communities or perhaps even lead to more crime. Weatherburn (2006, p. 29) describes it in this way:

> The immediate challenge when dealing with high crime communities (especially in the wake of a riot), then, is to find ways of pursuing what are known to be effective policing strategies without engaging in policing that is provocative, discriminatory or unduly oppressive.

Noel Pearson (2007, pp. 2–3) articulated a similar argument in the wake of the death of Mulrunji and the riot on Palm Island:

> Contrary to what might be assumed to be a conclusion from the Palm Island case, policing needs to be more, not less, active. But it must be a policing that is owned and identified with by Indigenous people who want to restore order and peace to their communities. It must be a policing that has as its objective the restoration of social norms.

What might such policing look like?

Strategies to enhance policing in Queensland's Indigenous communities

We believe that consideration of the research evidence, together with information we obtained during consultations, points to the vital importance of QPS officers conceiving of their role in policing in Queensland's Indigenous communities broadly — to include more than mere law enforcement. Though catching criminals and putting them before the courts will remain the predominant crime prevention strategy for police, the modern police officer has skills that extend well beyond a narrow focus on law enforcement. If crime is to be reduced in Queensland's Indigenous communities, police (who generally have the largest on-the-ground government presence) must play an important role. We suggest that the following strategies have potential to make a positive contribution.

Community policing

The community policing philosophy has provided an important influence on the QPS approach to improving relations between police and Indigenous communities, particularly since the Royal Commission. It appears, however, that currently there is less explicit emphasis on community policing than there has been in the past. This may result from the research evidence that many community policing strategies have little crime prevention value, although many may improve citizens' perceptions of police and reduce fear of crime. Strategies that focus on promoting police legitimacy, however, may help to reduce crime.

What we heard Queensland's Indigenous communities asking for was very much a 'community policing' approach; they desired an improved quantity and quality of contact between police and community members in efforts to reduce crime. It is our view that the evidence from research and from consultations points to the need for the QPS to revisit two principles, in particular, that are central to the philosophy of community policing: enhancing community involvement in policing, and promoting police legitimacy through a new focus on perceptions of fairness and procedural justice.

Enhancing community involvement

We identified at least three areas of mismatch between community views or expectations and those of the police: crime priorities; availability and responsiveness; and informal interaction with police. It is suggested that having greater community involvement in policing could help to close the gap in each of these areas.

1. **Policing and crime priorities**: Police priorities were criticised at the majority of our meetings in the communities. Police were often said to place too low a priority on problems that are important to the community, instead focusing on responding to serious crime after it occurs and enforcing alcohol and traffic laws. It is a concern that, for example, noisy parties and the associated problems were consistently identified by communities to be a major problem but were not identified as such by any police.

   Consistent with this, we found little evidence of community involvement in policing at the fundamental level of discussing and agreeing on crime priorities or policing strategies. In particular, we found little evidence of local justice agreements or community safety plans or suchlike, despite various recommendations and commitments of governments made along these lines. During our initial consultations, we also frequently heard from people who were frustrated at not being able to access any official information about the level of crime in their own community, although this has now been rectified in many communities by the quarterly reports published by the Queensland Government.
2. **Availability and responsiveness of police**: We found that the perceived lack of adequate police availability and responsiveness contributes to a lack of trust and confidence in police in Queensland's Indigenous communities. We have observed that, although some real problems no doubt exist, such as in the outer islands of the Torres Strait where there is no permanent police presence, there are also issues that may be about unrealistic community expectations, or lack of communication from police, that contribute to the perceptions of a problem in this area and that could be easily resolved.
3. **Informal interaction**: We found that people were very keen for police to be involved in community life. Community members emphasised the importance of having opportunities to interact with police officers informally, although many perceived that police had withdrawn from community involvement in recent times. People told us that they wanted police to come to community events, to play sport and work with young people, to support community programs, and especially to be seen walking around town and talking to people. The message to police was: be visible around town and be approachable; people are very keen to know their local officers.

Focusing on fairness

There is evidence to suggest that an improved focus on fairness may not only assist relations but also have a crime prevention effect. Consultation with communities indicated that people's perceptions of whether or not policing activities are 'fair' have important effects on police–community relations. People commonly indicated that fairness involved knowing what to expect, seeing the law enforced equally, being treated with respect, and having officers who 'relate well' to Indigenous people. The existence and policing of Alcohol Management Plans were often associated with complaints about fairness and procedural justice.

Problem-solving and partnership policing

Problem-solving and partnership policing represents a shift away from standard, reactive policing activities towards police closely examining the underlying causes of crime problems in order to develop strategies (with others) to reduce them. Research indicates that such problem-oriented policing approaches can modestly but significantly reduce a range of different crimes, particularly when police departments are committed to this style of policing and focus on a particular type of crime.

The QPS has adopted a formal problem-solving and partnership approach, called Problem-Oriented and Partnership Policing (POPP), since 1999. In Queensland's Indigenous communities, a number of successful POPP projects have previously been developed, such as the QPS Indigenous Driver Licensing Program to tackle the problem of unlicensed driving. However, with the exception of a number of OICs who maintain a strong focus on problem-solving and partnership approaches in dealing with many problems, we found little evidence of problem-solving and partnership philosophies being seen as central to QPS service delivery in Queensland's Indigenous communities.

The communities themselves consistently and clearly articulated to us their need for more proactive policing. A number of local police officers were also keen to be more proactive, but noted that high workloads, limited staff numbers and efforts to enforce alcohol restrictions prevented them from doing so.

It is our view that the problem-solving and partnership philosophy should be a core policy strategy in Queensland's Indigenous communities.

Patrolling

Police patrols may be conducted randomly (non-directed patrols) or targeted at high-crime times or places (directed patrols). Although research indicates that non-directed patrols do not prevent crime, there is strong evidence to suggest that directed patrols do. There are some concerns, however, that increasing the visibility or level of activity of police can lower community trust and confidence in police if it is perceived to be aggressive.

We heard criticisms that police in Queensland's Indigenous communities are either only seen driving around town or rarely seen at all. It was clear that people want police to have a visible presence around the community to reassure people and deter antisocial behaviour. However, a number of constraints on patrolling were explained by police, including high workloads, the unattractiveness of foot patrols in comparison with vehicle patrols, concerns about safety on foot patrols, and the limited ability of officers to work overtime shifts.

We conclude that a greater emphasis should be put on patrolling in Queensland's Indigenous communities in a way that can build community confidence in police and improve relations.

Sport and recreation programs

Having police provide sport and recreation programs for young people — particularly those engaged in, or at risk of, delinquency — has often been said to promote young people's positive development and prevent crime. In Queensland's Indigenous communities, sport and recreation programs for young people have been a popular strategy for preventing youth crime. Current initiatives in a number of communities include Police-Citizens Youth Clubs (PCYCs), and its variation, the Community Activity Programs through Education (CAPE) program. The QPS has stated its support for the expansion of these programs where possible.

Despite the paucity of evidence demonstrating the crime prevention effectiveness of such programs, we would encourage the QPS to stay involved in sport and recreational activities in Queensland's Indigenous communities. PCYCs, in some communities at least, are effectively engaging with the community, have built positive relations and provide some programs that go beyond sport and recreation and have potential for crime prevention. On Mornington Island the PCYC is a focal point for community activity and appears to have become the primary site for community capacity building and community development work. It is important that these efforts are supported and sustained beyond the involvement of particular individuals who have worked hard to get these programs up and running.

Policing domestic violence

There is limited evidence about effective police strategies to prevent forms of violence. For domestic violence in particular, research suggests that arrest may have positive effects for deterring employed offenders, but may increase re-offending among unemployed offenders or those in disadvantaged neighbourhoods. Experiences overseas indicate that having police focus on repeat victimisation and provide a tiered approach to increasing the intensity of police interventions (addressing issues of both victim safety and offender motivation) may be the most effective way for police to prevent future episodes of domestic violence.

Indigenous people in policing roles in Queensland's Indigenous communities — let's make it work

One of the most frequently suggested solutions to the difficult relationship that exists between Indigenous communities and police is to increase the level of Indigenous people in policing roles, including as sworn police officers within the QPS.

The QPS needs Indigenous people in policing roles in order to:

- develop community capacity, ownership and involvement in dealing with problems of crime and disorder
- assist non-Indigenous officers to operate in these culturally unique settings
- help supplement otherwise inadequate levels of mainstream policing services, as it does in the outer islands of the Torres Strait.

Having Indigenous people in policing roles is not a simple solution to the problems associated with policing Indigenous communities; it is no miracle cure for poor relations between police and the community, nor is it a cure for high crime rates. Experience, community views, research and other reports all point to the inherent difficulties associated with being an Indigenous person in a policing role in one's own community, including feelings of marginalisation from both the community and the police service. (These difficulties seem less apparent in the Torres Strait Islands, with its history of self-policing.)

There have been several decades of uncertainty about the best model for Indigenous people to make a contribution in policing roles in Queensland's Indigenous communities. Two additional models to that of Indigenous sworn police, that are unique to Indigenous communities, have enabled Indigenous people to perform policing roles in their own communities:

1. Community police, who have been employed by local councils since the 1970s in many of Queensland's Indigenous communities
2. Queensland Aboriginal and Torres Strait Islander Police (QATSIP), a pilot program implemented by the QPS from 1999 in a small number of communities.

Both models have given Indigenous people limited policing powers to enable them to carry out some enforcement activities in addition to a range of other functions, such as liaison between the QPS and community members.

Many difficulties have been identified over a long period in relation to community police in particular and the capacity of local councils to support a policing function. In 2006, the Queensland Government announced that it would change to a standard service delivery model throughout the state, including Queensland's Indigenous communities in which:

- community police and QATSIP are to be phased out
- policing services are to be delivered by sworn police and QPS-employed Police Liaison Officers (PLOs).

Very little rationale for this change to a standard service delivery model was provided. It has not been a smooth change and Queensland's Indigenous communities remain in various states of 'transition' to the standard service delivery model. PLOs, who have no formal policing powers, have thus become the third model by which local Indigenous people may play a role in policing their own communities.

It is possible that, given the right people, support and level of commitment from the QPS, any of the models — including the community police, QATSIP and PLO models — can make a contribution of fundamental importance in Queensland's Indigenous communities. For example, despite the challenges we saw highly committed and skilled individuals who were making the community police and the QATSIP models work. Equally, however, with the wrong people, inadequate support or lack of commitment from the QPS, any of the models can be not just a failure but actually detrimental to good relations.

On the other hand it cannot be said that all the models — community police, QATSIP and PLOs — are equal. Some are clearly more problematic than others.

Indigenous sworn officers

Having local people play a significant role in policing their own communities in roles as sworn police in Indigenous communities is a worthy goal and one that should remain.

Despite the success of the QPS Justice Entry Program (JEP) in increasing Indigenous recruitment generally in Queensland, Indigenous sworn police in Queensland's Indigenous communities remain a rarity. The QPS entry requirements (including the requirements relating to past criminal convictions), the reluctance to leave the community (even temporarily for training), the complications involved in policing one's own community and the pull of other places and opportunities for those who are capable and willing to undertake this training, will remain barriers to increasing the numbers of Indigenous sworn police in these communities. Building any substantial number of Indigenous officers in these communities remains a long-term proposition.

Strategies that the QPS could implement to recruit Indigenous sworn police from Queensland's Indigenous communities in the longer term include:

- serving Indigenous police officers mentoring new recruits, or possible recruits while they are still at school
- having special intake blocks of Indigenous people, which could help create better support for the recruitment and retention of Indigenous sworn officers; such intakes would not have to be limited to Indigenous recruits but would simply include Indigenous recruits in sufficient numbers for there to be some degree of mutual support.

Community police untenable

We agree with many other reports that have suggested that the fundamental weakness of the community police scheme is that they are not part of the QPS but must rely on the QPS for effective training and supervision. This fundamental weakness justifies their replacement with a better model. Community police should not be relied on to do difficult and dangerous work without proper training and support. In places where community police continue to operate with some success, such as in Aurukun, they should be supported until such time as there is a viable alternative to which the community police can be transitioned.

PLOs are not ideal in these communities

It is our view that the role of PLOs in Queensland's Indigenous communities is also greatly compromised for a number of reasons. The key problem is that their lack of powers means they have little in terms of a sense of control or ownership of policing issues in their communities. They tend to fall into the invidious position of acting as a 'snitch' — that is, someone whose primary role it is to help police identify offenders. Being dressed in full police uniform further contributes to the difficult standing they have in the community, as it sends a clear message that, although they are not police and have no powers, they are on the police 'side'.

PLOs are easily marginalised from the police service and from the community, and PLOs themselves can become a flashpoint for tensions rather than a bridge between the two 'sides'. Indigenous people need a real stake in dealing with the crime and disorder problems in their own communities, including in policing them. PLOs are not the best vehicle for achieving this goal. It was a model of PLOs working with sworn police (that is, the standard service delivery model) that was in place on Palm Island and was a factor involved in Mulrunji's death.

It should be noted that the use of PLOs in association with the operation of PCYCs or other sport and recreation programs may provide a notable exception to our general comments regarding the role. The use of PLOs in association with the PCYC program, for example, does not involve the PLOs wearing police uniform and in this context they have a role that is clearly defined in the eyes of the community as being focused on crime prevention and community development.

QATSIP — the most promising model in Queensland

Although there are certainly difficulties associated with the QATSIP model, in Queensland it has been the most successful of all the efforts to include local Indigenous people from Queensland's Indigenous communities in policing roles.

The QATSIP model seems to have enjoyed generally high levels of support from local QPS officers, Indigenous communities and QATSIP officers themselves. Although the QATSIP model is not without its challenges, QATSIP officers have achieved a commendable degree of respect and credibility with communities and police. This appears to have arisen in large part as a result of having QPS backing (including training and supervision) and some powers to act.

To say that the QATSIP model is the most successful model we have seen in Queensland is not, however, to say that it is the best possible model. Weaknesses include that QATSIP can only enforce by-laws, they receive limited on-the-job training, and they have problematic status within the QPS (they are classed as 'other employees', along with cleaners and the like).

In contrast to the situation in Queensland, from information we received during consultations it appears that police services in South Australia and the Northern Territory have given strong support and a long-term commitment to models whereby Aboriginal people have been given limited police powers, and in some areas they have also carried accoutrements (see Johnston 1991, vol. 4, p. 160). The schemes in these jurisdictions have been operating for a long time and, though problems have arisen, they have been managed, as indeed they must be with any other aspect of police service.

Some of the reluctance to commit to the broad implementation of the QATSIP model in Queensland in the past has been said to be due to costs. It is our belief that such an argument is too short-sighted: if QATSIP can be effective at reducing crime or reducing the need for fully sworn QPS officers, in the longer term such a model would lead to substantial savings.

It is our view that the QPS should commit to developing a model for local Indigenous people to play a real part in policing their own communities in Queensland's Indigenous communities. The QATSIP model should provide a starting point, but it should be redeveloped and this redevelopment should be informed by the Northern Territory and South Australian schemes. Indigenous people performing this policing role in Queensland's Indigenous communities must:

- be provided with adequate powers to ensure they can act in ways to make a difference and to win the respect of their communities
- not be limited to enforcement of by-laws — even if only because 'law and order' by-laws do not exist in all communities
- be appropriately trained and supported, including by local police.

Because of the number of people in Queensland's Indigenous communities who would otherwise be excluded from taking up such positions, prior criminal convictions should not act as an automatic bar to performing the role. Consideration should be given on a case-by-case basis as to whether the risks involved in appointing an individual with a prior criminal conviction can be justified.

Community patrols

Finally, we want to sound a note of caution in relation to the Queensland and Australian Governments' increasing willingness to fund and perhaps even to rely on community patrols. Community patrols may appear to be a relatively cheap and simple solution to providing local people with a real stake in dealing with the crime and disorder problems within their own communities. However, care must be taken to ensure that problems that have previously been identified in relation to community patrols, and the other models for involving Indigenous people in policing roles, do not plague these newly funded, locally based initiatives. Threats to the effectiveness and sustainability of community patrols include short-term funding, limited training, poor understanding and conceptualisation of the role, and a low level of integration with the QPS.

There has been little evaluation conducted of community patrols, although feedback suggests that they are generally positively regarded by communities themselves. However most police who have had firsthand experience in Indigenous communities of community patrols being funded appear unconvinced of their value.

QPS must step up its support to police officers in Indigenous communities

Being a police officer in these communities is a difficult and complex role; however, for the right officers with the right level of support from the QPS and their community, it can also be a very rewarding one. The success of policing depends on having the right people in policing jobs in these communities.

Challenges for the QPS in this respect involve officers' recruitment into, retention in and repatriation out of Queensland's Indigenous communities, the need for specialised training, and the need for appropriate recognition and value to be placed on service within these communities. What has concerned us is that, despite the QPS's efforts in terms of incentives, cultural training and other organisational support, there appears to be a strong and continuing perception that, within the QPS, service in Queensland's Indigenous communities is not valued as it should be.

The importance of keeping policing positions filled in these communities cannot be overstated. The problem of attracting and retaining officers to work in Queensland's Indigenous communities is not one that is going to go away, but rather is one that may get worse. Few police officers choose to build a career from experience in policing Indigenous communities; indeed there is arguably not enough encouragement from the QPS for them to do so.

It was very clear to our inquiry that the development of personal relationships with police officers is highly valued in these communities — people strongly believe that this is essential for developing trust and confidence in police. The practice of six-monthly rotations of police in and out of the communities, for example, does not allow communities time to get to know their officers, and does not allow those officers to become part of community life; therefore it should be seen only as a short-term solution to problems of recruitment and retention.

At the same time, the QPS is required to balance the fact that, for most officers, working in any particular community long term or even making a career working in a number of them (without intervening periods served elsewhere) is not feasible, and for many communities it may not be ideal in terms of ensuring that high-quality policing services are provided. For many officers, a period of service in these communities of between 18 months and three years, with short breaks, may provide the ideal balance between being there long enough to build the relationships and skills that really allow them to make a positive contribution to policing, and other factors working against longer terms of service.

Incentives

In considering incentives, it appears that the increased financial incentives and the upgrading of many OIC positions in these communities to the rank of Senior Sergeant have generally helped to alleviate recruitment and retention difficulties faced in these locations.

The lack of suitable accommodation continues to be a disincentive to officers working in some communities. For example, the problems for the QPS at Woorabinda are particularly acute and the problems at Palm Island also need rectification.

Cultural training

Cultural training must be compulsory for all officers serving in Queensland's Indigenous communities. The community-specific induction packages that have been implemented by the QPS since the death of Mulrunji should be only the first step in an ongoing education process.

There are a number of strategies that the QPS must develop to provide a focus on the continued development of cultural competence for its officers serving in these communities.

These strategies will need to vary from community to community as there is no 'one size fits all' approach. Both communities and local police must have a say in what is the appropriate formulation of ongoing cultural training for police in any given local context.

Although we believe that the QPS must support ongoing cultural training for police in Queensland's Indigenous communities, we also agree with the view expressed by many officers that the best learning is not provided through workshops or written materials but rather happens on the job, usually with the benefit of learning from an experienced OIC. It is this kind of cultural training that we want to see the QPS devise strategies to support and promote. In particular, we are keen to see the QPS institutionally capture the knowledge and experience of those who have successfully worked in these communities. For example, the QPS could:

- convene regular opportunities — say, on an annual basis — for officers working in Indigenous communities across Queensland to be brought together to exchange ideas about the challenges they face and the possible solutions
- formalise a mentoring program for officers, involving some of the 'legends' and other experienced, well-regarded officers.

It will be most important to have such strategies in place, especially for those serving as OICs in these communities for the first time. In such a situation an experienced OIC might act as mentor and for a period could provide a fortnightly telephone debriefing session for the officer; the mentoring officer might also visit that officer on several occasions in their first six months of service and 'ride along' with the officer while they perform their duties, to provide feedback and advice.

A mentoring scheme could also involve local community members as mentors. Nominated local people could be identified as persons with whom an officer is to have regular conversations about policing and community issues, providing an opportunity for the officer to learn as the relationship develops. In some communities there may be a single community person who could act as a mentor to police officers (this person may be a PLO, a councillor, a community justice group member or another person), while in other communities it may be necessary to have a small number of people.

Although the strategies we have outlined above have the potential to enhance the induction program for officers newly arrived in an Indigenous community, we also believe that the induction of new officers should include a minimum requirement that all officers are introduced to key members of the community, including members of the local council. In addition, it would be beneficial if some communities trialled and evaluated a program of door-to-door introductions of new officers as part of their local induction process, as there is some research evidence suggesting that such a strategy may have a crime prevention effect.

The QPS has conducted little, if any, rigorous evaluation of its cultural training programs. Nor have individual officers been encouraged to focus on the development of cultural competence through developing assessment criteria. It may be that the QPS could use the expertise of officers who have worked effectively in Queensland's Indigenous communities, and others, to assist in developing such tools for its officers and the organisation.

Other organisational support

It is our view that the QPS human resources support provided to OICs and their District Officers could be improved — in particular, by establishing an internal recruitment unit or program focused on identifying suitable officers and recruiting them to Indigenous communities.

High-level QPS leadership to drive the change in policing Indigenous communities

The QPS already makes substantial efforts in terms of improving relations and crime prevention in many of Queensland's Indigenous communities. It is our view, however, that these efforts must be improved.

We outline a number of reasons for our view that the current QPS structure which provides internal support to the area of Indigenous policing — the Cultural Advisory Unit — will be unable to provide the level of leadership needed to drive the types of change we have suggested (despite the undisputed dedication of individual officers within the CAU). We recommend that a new structure should be created within the QPS to provide support to Indigenous policing (this new structure should replace that part of the CAU which currently provides services in relation to Indigenous policing).

A new QPS structure: the Indigenous Policing Partnership Command

We recommend the creation of an Indigenous Policing Partnership Command (IPPC), led by an officer of the rank of Assistant Commissioner. This new structure should not be seen as an end in itself — rather we see that it must drive the large amount of change needed to improve relations in, and improve the policing of, Queensland's Indigenous communities.

We believe that the command would allow the QPS to better position itself to contribute to, and take advantage of, current whole-of-government efforts to overcome Indigenous disadvantage in Queensland. We believe that the police have more to offer in this respect than is currently expected of them. Police are not only on the ground in numbers in these communities (unlike most other agencies), but they also have a real stake in resolving community problems which will otherwise often arrive 'on their doorstep' for law enforcement action. The IPPC would allow the QPS to become a more effective partner in whole-of-government approaches by developing networks, identifying opportunities for partnerships and helping to seek funding in line with a strategic focus on crime prevention.

Such a command would also be well positioned to tackle the range of internal issues that must be addressed within the QPS to improve Indigenous policing. Such issues include those relating to attracting and supporting staff to work in these communities. The creation of the command would send a clear message that the QPS values and supports the role of police in Indigenous communities. The new structure can also facilitate the development and sharing of specialist 'know-how': the knowledge, experience, skills and networks that enable officers to operate effectively.

Most importantly, we believe that through a variety of mechanisms the IPPC would be able to influence and develop the implementation of a style of policing in Queensland's Indigenous communities that is more heavily focused on:

- maximising the crime prevention outcomes of policing work
- problem identification and solving, and evaluation
- partnering (including with the community and in order to build community capacity).

Although there will be costs involved in the restructuring needed for the creation of the IPPC, and in the implementation of our other recommendations, there can be no doubt that efforts that are effective in reducing the size of the crime problem in these communities will in the long term result in large savings — in both financial and human terms.

Part 3: Term of reference 2: detention in police custody

Our second term of reference required us to deal with issues relating to the detention of people in police custody in Queensland's Indigenous communities. We were required to consider 'current practices relating to detention in police custody, including the monitoring of detainees in watch-houses and other police facilities' in Queensland's Indigenous communities and 'the possible involvement of community justice groups or other civilians in the monitoring of detainees'.

Patterns of detention in police watch-house custody

Since the Royal Commission highlighted the overrepresentation of Indigenous people in police custody and the associated risks, a range of measures have been put in place to encourage police to limit police watch-house custody as much as possible. However, despite such measures, statewide data do not indicate any clear downward trend in such detention across Queensland.

Although there has been a focus on watch-house issues in law, policy and policing over a number of years, it remains difficult to obtain information on the patterns of detention in watch-houses other than at a statewide level. To determine the patterns of detention in watchouses in Queensland's Indigenous communities we drew heavily on data we extracted from the watch-house registers of four Western Cape York watch-houses — Aurukun, Kowanyama, Pormpuraaw and Weipa.

Alternatives to arrest and detention in the watch-house

Our analysis of QPS crime report data for the four Western Cape York locations shows that police are quite frequently using notices to appear as an alternative to arrest and detention of offenders in the watch-house. Cautions are being used to a lesser extent, but of most concern is that youth justice conferences or community conferences are very rarely used. The limited use of youth justice conferences may simply reflect their lack of immediate availability, as they have been conducted only every six months or so. There is evidence to suggest that this is one diversionary option that has some potential to have a crime prevention effect, so the use of conferences, in particular, as a diversion strategy should be encouraged wherever appropriate.

Reasons for admission

We considered the offence types that most frequently led to admission to the watch-house in the four Western Cape York locations. We found:

- Pormpuraaw watch-house had the highest proportion of detainees held for violent offences (or offences against the person) and this was the most frequent reason for the detention of people at Pormpuraaw.
- Unusually, in Aurukun and Weipa, watch-house admissions were most frequently associated with property offences; this can be explained by the high number of juveniles in these communities committing property offences as a group.
- Public order offending accounts for a high proportion of admissions into watch-house custody in all locations. However, it should not be assumed that these mostly involve minor or trivial behaviours. Rather, the evidence considered by our inquiry suggests that these offences are often applied by police to respond to violence or threats of violence.
- Consistent with what we were told by local police officers, the data we considered suggest that public drunkenness alone now very rarely forms the basis of a person's detention in police custody. Rather, drunkenness associated with other offending behaviour, such as violence or threats of violence, seems to be the more usual scenario that results in detention in custody for good order type offences.
- Across all of the locations we examined, breaches of justice processes, most notably failure to appear in court, were common offences leading to detention in police watch-houses. In Kowanyama and Pormpuraaw, watch-house admissions were often associated with breaches of domestic violence orders.

The area of offending leading to watch-house detention that is of greatest concern to us — in that a number of such detentions may be 'avoidable' — is breach of justice process offences, in particular the large number of admissions to the watch-house that result from failure to appear in court. In such cases, police are likely to have only limited discretion to respond other than by arrest of the offender. Police and community justice groups may be able to play a greater role in trying to reduce the number of offences of failure to appear in court, and thereby avoid a substantial number of watch-house admissions.

Juveniles

Our consideration of the data on the detention of juveniles shows that juveniles were very rarely detained in the watch-houses in Pormpuraaw and Kowanyama. On the other hand, they were frequently held in police custody in Aurukun and Weipa, reflecting high rates of property offending and re-offending and high numbers of property offenders.

Times of admissions

We found that there were predictable patterns for admissions to the watch-houses, which tend to be concentrated on certain weekdays (the particular weekdays in each location appear to be influenced by court days and perhaps police rostering); admissions were most frequent in the mornings, peaking between about 9 am and 11 am, and then in the late afternoon to early evening. It appears that the pattern of admissions mostly reflects when police were on shift and were dealing with matters that had been brought to their attention, rather than when offending mostly occurs.

Length of detention

Of the four watch-houses we examined in detail, we found that, overall, few detainees were detained for very long, except at Weipa. A substantial proportion of detainees were held in the watch-house for less than four hours and the vast majority were held for less than 24 hours. Although, in general, juveniles were rarely held overnight, it was common in Weipa. The different pattern at Weipa is likely to be as a result of that location often acting as a service centre for court for other communities, so that offenders are transferred to Weipa for court, and problems with flight availability may result in a longer stay.

Release from the watch-house

We found that most of those detained in police custody in the Western Cape York watch-houses are bailed or otherwise released into the community, rather than transferred out of the community in police custody (to remand or court). For the less serious offences such as public nuisance, it was very rare for detainees not to be released into the community. Those transferred out of these communities in police custody had most often been charged with serious assault or property offences (recidivist offenders), or had been detained for breaching justice processes.

A different pattern for watch-house detention from that at the time of the Royal Commission

We conclude on the basis of our examination of data in relation to four Western Cape York locations that the evidence suggests substantial differences from the patterns identified at the time of the Royal Commission.

In particular:

- We did not see data suggesting that police in Queensland's Indigenous communities are generally overusing arrest; alternatives to arrest, particularly notices to appear, were used quite frequently by police.
- We did not see any evidence of people being detained in police custody for failure to pay fines.

- We did not see a high proportion of watch-house detentions resulting from public drunkenness alone; rather we see evidence suggesting that, although a high proportion of detentions involve public-order-type offending, often this relates to violence and threats of violence.
- We saw clear evidence of police taking steps to limit the duration of detention in watch-houses in these communities.

This information, together with the pattern of high crime levels and high proportion of recidivist offenders, suggests that police in Queensland's Indigenous communities may well be approaching the limits of the capacity of diversionary and other strategies to further limit the detention of people in watch-houses.

Although the focus on diversion and other strategies to limit the detention of offenders in the watch-house is to be continued and encouraged, again our conclusions strongly suggest that an increased focus on crime prevention must form a central part of any further efforts to reduce the overrepresentation of Indigenous people in police custody in Queensland's Indigenous communities.

Custodial health and safety

The responsibility of the QPS and police officers to care for those they detain is an onerous one. A death in custody is the ultimate risk, but many other risks arising from detention must also be managed.

The number of deaths occurring in police watch-house cells has decreased dramatically in Queensland since the Royal Commission, but all such deaths remain tragic events that warrant the closest scrutiny. The decrease in deaths has been accompanied by improvements in watch-house facilities and improvements in the standard of care provided to detainees after the Royal Commission's recommendations.

We considered custodial health and safety in three key areas:

1. Watch-house facilities, including the replacement and upgrading of facilities since the Royal Commission and the transfer of prisoners from watch-houses in Indigenous communities.
2. Care of detainees by police, including conducting appropriate assessments and inspections of prisoners, the use of electronic surveillance, and the use of resuscitation and first aid.
3. Community involvement, including contact visits by family and friends, cell visitor schemes and the potential for community involvement to increase the accountability of police or provide supervision to police prisoners in the watch-house.

Watch-house facilities must remain a priority

In response to concerns raised by the Royal Commission, police services have given a great deal of attention to improving the standard of watch-house facilities. Nevertheless, issues relating to the standard of watch-house facilities have continued to arise, with a number of coronial inquests into deaths in police custody recommending further improvements.

We saw that the standard of watch-house facilities varied considerably in the Indigenous communities we visited — for example, a number of complaints and concerns were raised in relation to the watch-houses at Lockhart River, Murgon, Kowanyama and Pormpuraaw. A number of people also raised concerns about the limited watch-house facilities in the Torres Strait Islands.

The QPS has a continuous program of regular inspection of watch-house facilities in place, and other internal audits are carried out from time to time. Considerable sums of money have also been spent on the continuous program of replacement and upgrading of watch-house facilities. The provision of safe watch-house facilities, although expensive, remains an important priority if we are to ensure the safety of prisoners in police custody in Queensland.

Care of detainees by police may improve through auditing and recording

Although police officers should not be expected to make a diagnosis of a prisoner's medical condition, they have an ongoing duty to assess prisoners in order to make decisions about whether a prisoner needs professional medical attention, special supervision or transfer to an appropriate facility.

As a result of the Royal Commission, health assessment forms were introduced for each prisoner in order to help police determine whether medical attention is required and assess a prisoner's level of risk when they are making appropriate detention and supervision arrangements. Subsequent to the Mulrunji inquest, a new series of checklists has been introduced for conducting health assessments.

Another key aspect of the care provided to detainees is the physical inspection and checking of prisoners. Again, improvements in this area have been made since the Royal Commission, but existing evidence from a number of deaths in custody shows a level of non-compliance with the OPM requirements for regular physical inspections of every prisoner.

Since our inquiry was announced, the electronic surveillance systems in watch-houses in Queensland's Indigenous communities have been upgraded to ensure digital CCTV coverage of all cells and public areas. There are limits to the effectiveness of electronic surveillance systems in ensuring that prisoners are safe. CCTV provides no information about prisoner safety when that person is motionless and only limited information when the person is non-verbal.

Although electronic surveillance systems are no substitute for inspections, they do provide a tool by which audits can be conducted to ensure that inspections of prisoners are made in accordance with QPS policies and procedures. Given the high risks associated with caring for people in watch-house custody, and the history of coronial inquests revealing a level of non-compliance with the policies, the QPS should take advantage of the new technology to conduct regular audits of the inspection regimes in Queensland's Indigenous community watch-houses.

Some police officers we spoke to during our consultations admitted that prisoners are occasionally left unsupervised when other operational demands arise. We recognise that, in practice, justifiable circumstances may arise from time to time in remote communities. However, we also consider that these circumstances should be documented and that there should be close and careful monitoring of the circumstances that give rise to a prisoner being left unattended. Aside from the accountability this process provides, the information has clear implications for QPS assessment of staffing needs in Queensland's Indigenous communities.

Another option for the QPS to consider, in terms of its potential both to reduce the need for detainees to be left unattended and to improve the overall standard of care provided to detainees by police, would be to make an officer (or a watch-house assistant) from another place available in some locations on those days that are predictably busy days in the watch-house, such as court days.

Community involvement by encouraging 'care and comfort' visits

Community involvement in the watch-house can have important benefits for prisoner health and safety. It can provide moral support for prisoners, improve communication between police and prisoners, and increase the levels of trust and confidence that the community has in the police. Currently where visitation is provided by family and friends, or through cell visitor schemes, it is principally focused on providing 'care and comfort'. It is our view that this focus is appropriate.

The 'training' needed by such visitors is minimal. It should be enough to give visitors a clear understanding of their role and for them to be made aware of the vital importance of providing police with any information they obtain from a prisoner that is relevant to police making an accurate health assessment.

Given the possible benefits to prisoners of contact visits providing 'care and comfort' from family and friends, and the positive effects this can have on police and community relations, police in Queensland's Indigenous communities should continue to do all they can to facilitate such contact visits, where appropriate.

Cell visitor schemes in Queensland's Indigenous communities are currently mostly informal, rather ad hoc and possibly unsustainable. The success of such schemes is subject to there being adequate commitment and time available on the part of local police to coordinate and supervise visits, and commitment by community members to undertake such visits. We agree with the QPS that such schemes are a desirable complement to the careful supervision of prisoners and that, like family visits, they can enhance the transparency of the police detention process. Given the volatility generated by alleged watch-house problems in many communities, this enhanced transparency can only help to improve relations between the community and the police.

Although we support such schemes, it is our view that the workload for organising and implementing such a scheme should not fall upon the OIC of the police stations in these communities. Rather, someone within the community should be a point of contact for the police and that person should be responsible for contacting willing community members and organising cell visits when necessary. Our proposal is that the community justice group coordinator and/or members be responsible for coordinating the cell visitor scheme in those places where there is community support for such a scheme. However, recognising the heavy workload that these groups already face, we propose in Part 4 of this report that:

- the role and functions of community justice groups be reviewed
- the presence of various local justice initiatives in each community and the responsibilities of police, councils, justice groups and community members be included in a community-specific local justice agreement.

Viable options for community involvement in supervising detainees are very limited

Given the risks involved in supervising and monitoring prisoners in watch-houses, especially those prisoners with health problems, the difficulties that have been encountered in ensuring that police themselves are adequately trained to properly care for prisoners, and the difficulties in sustaining a cell visitor scheme in many of these communities, it is our view that the effort required to implement and sustain a system of civilian monitoring of prisoners would outweigh any benefit unless these community members are employed and appropriately trained by the QPS:

- as full-time civilian watch-house assistants, as exist in some other locations in Queensland
- in Indigenous policing roles, so that they could regularly play a part in watch-house supervision and in circumstances of operational necessity could perform this role in the absence of QPS police officers.

Such strategies are only worth pursuing in those communities where watch-house workloads warrant it.

Part 4: Term of reference 3: optimising the use of resources

Our third term of reference required us to consider the question of what should be done to ensure the optimal use of existing and future resources in delivering criminal justice services in Queensland's Indigenous communities.

Crime and violence prevention outside the criminal justice system

We have outlined our view that in order to improve relations between Indigenous people and police, and in order to reduce Indigenous overrepresentation in the criminal justice system, we must make serious inroads into reducing the levels of crime and violence in Queensland's Indigenous communities. Only by doing so will we be able to optimise the use of criminal justice resources, which will otherwise continue to be draining and in increasing demand.

Efforts to date, both outside and within the criminal justice system, to prevent crime and violence in the communities have let Indigenous people down.

The causes of crime are complex, shaped greatly by the interrelationship of a large number of factors that the criminal justice system does not control (for example, the prevalence of inadequate parenting, and the level of poverty and unemployment), and the greatest influence over these factors can be had through other means. A mix of strategies to prevent crime and violence is needed.

In order to determine how our approach to crime prevention strategies outside the criminal justice system can be strengthened, we brought together:

- research evidence about the crime prevention effect of various intervention strategies and programs outside the criminal justice system, including developmental or early intervention strategies, and media and social marketing campaigns
- information about existing strategies and programs in Queensland's Indigenous communities.

The value of early intervention: stemming the flow of offenders to the system

Some early intervention programs have been shown to have a very substantial crime prevention effect, far greater than other interventions that may be provided later in life when offending has commenced.

It is tragic that, despite previous recommendations, greater efforts have not been made to urgently address the need to provide support and advice to Indigenous families, parents and carers within Queensland's Indigenous communities (see Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999, pp. 156 & 258; see also HREOC 1997; Zubrick et al. 2005, pp. 571–5), given what is known about:

- Indigenous overrepresentation in the criminal justice system
- the disruption to Indigenous parenting and families that has been caused:
  - by processes of colonisation, including the past policies that caused the removal of many children from their Aboriginal parents, and the proof available about the intergenerational effects of such removal
  - by sickness and premature death, and
  - by the large number of Indigenous people, including parents and carers, in prison, and
- the link between inadequate parenting and involvement in crime.

Although more should have been done sooner, there are some positive steps occurring in Queensland on which we can build — in terms of parenting programs and home visiting services for parents and carers of babies and young children, for example. The Welfare Reform Trial initiative, and particularly the case management approach taken by the FRC and the associated programs and services, also provides an important step in four communities to address the underlying causes of crime and to rebuild social norms.

We also argue that more use, and more creative use, of social marketing campaigns in Queensland's Indigenous communities could be useful in reducing crime. Campaigns may relate to issues such as:

- the inappropriateness of violence as a means of resolving disputes
- non-violent parenting and modelling non-violent behaviours
- school attendance and performance.

To date, Cape York Partnerships and the CYIPL have proven to be effective in developing innovations and partnerships in this area. Their example illustrates that government should not be in the front line of developing innovative crime and violence prevention strategies and partnerships with Indigenous communities, but rather government can have a useful role as a supporting partner for Indigenous organisations, which are better connected at the regional and local levels. This is likely to be especially true for programs that include a component of advice and support to parents; there is a clear danger that the provision of advice and support to Indigenous parents and families could be imposed by governments in a paternalistic or ethnocentric manner that would doom any effort to failure from the outset.

This being said, the Queensland Government, especially through ATSIS, needs to develop a stronger understanding of and focus on what the evidence can tell us about what might work in terms of preventing crime and violence.

We see a key part of the Queensland Government's role as being to support and facilitate the development of a range of partnerships in this area. Importantly, efforts should include:

- engaging the expertise available in the university sector, such as that at Griffith University regarding developmental approaches to crime prevention, and at the University of Queensland regarding parenting programs
- recognising and encouraging the contribution of the private sector (both 'not for profit' and 'for profit' agencies), such as the examples we have seen in the work of Cape York Partnerships, the Cape York Institute for Policy and Leadership (CYIPL) and corporate bodies such as the Macquarie Group and Rio Tinto Ltd
- capacity building in Indigenous communities to develop a better understanding of the evidence regarding parenting practices and outcomes later in life, for example.

Successful efforts made in this regard, which for our purposes are focused on achieving important outcomes in preventing crime and violence, will also help government to achieve other commitments made under the Council of Australian Governments (COAG) *Closing the Gap* targets for Indigenous people and the National Partnership Agreement Between the Commonwealth of Australia and the State and Territory Governments Regarding Indigenous Early Childhood Development (2008) (Australian Government 2009; COAG 2008).

Crime and violence prevention within the criminal justice system

Although the criminal justice system is at the 'back end' of the crime prevention continuum, it also plays an important (if inherently more limited) crime prevention role which must be further developed if we are to optimally use resources.

The crime prevention role of the criminal justice system can be said to lie at the 'hardest' end of the problem — many of those most deeply involved in the criminal justice system are individuals who face multiple and complex challenges such as addictions, mental impairment, developmental deficits, poor education, and long-term unemployment. Providing effective interventions to change the trajectories of such individuals after they have begun offending is certainly possible, but difficult. The criminal justice system is an important way of intervening in the lives of offenders and preventing further crimes being committed; this is particularly important in terms of dealing with chronic or persistent offenders, who we know account for a large proportion of offences.

Unfortunately, our understanding of the evidence for the crime prevention potential of aspects of the criminal justice system remains underdeveloped and is often confused in government policy. In the past, for example, many policies and practices that were said to be focused on reducing Indigenous overrepresentation in the criminal justice system were policies and practices that were likely to have little if any crime prevention effect. We think it is unlikely that a substantial reduction in overrepresentation of those from Queensland's Indigenous communities will be brought about by increased use of strategies that provide 'diversion from' custody or the criminal justice system alone, or through the expanded use of Murri Courts, as responding to the underlying causes of crime is not the focus of such strategies.

It must be said, however, that increasing the use of 'diversion from' custody or the criminal justice system is not only justifiable, but to be encouraged, throughout Queensland on grounds other than those relating to crime prevention. For example, 'diversion from' strategies are likely to be very effective in reducing the number of people in custody and reducing the risks associated with keeping people in custody; they may also be the most cost-effective response for many offenders. We must also remember that research on offender trajectories generally suggests that most people desist from offending quickly anyway, without the need for interventions based on treatment and support.

What we are saying is that in Queensland's Indigenous communities, where offending behaviour is common, often violent and relatively widespread, strategies that only 'divert from' custody or the criminal justice system are unlikely to provide any meaningful contribution to reducing Indigenous overrepresention. In these communities we need to develop a greater level of understanding about what particular types of diversionary strategies can be reasonably expected to achieve, especially in terms of their potential for crime prevention.

Murri Courts also serve other important ends and are to be encouraged, but they should not be relied on to reduce Indigenous overrepresentation in the criminal justice system in Queensland's Indigenous communities.

Increasing the availability of intensive interventions for serious, repeat and persistent offenders from Queensland's Indigenous communities is likely to be money well spent in the sense that it is these offenders who account for a disproportionate amount of crime, and for whom the likelihood of re-offending is the highest.

The rule that the criminal justice system needs to provide treatment and support in order to reasonably expect to exert a crime prevention effect does not apply, however, to the process of conferencing (and perhaps some other restorative justice processes). The research evidence suggests that conferencing does have potential for preventing crime. Further, restorative justice processes may have particular resonance in Queensland's Indigenous communities for the following reasons:

- because of the prominent role played by family and kinship matters in many disputes
- because such processes can help to rebuild local authority by having local people as central to the issues to be resolved.

Because of this potential for crime prevention, the greater use of conferencing and other restorative processes involving local people in the resolution of disputes in Queensland's Indigenous communities should be developed and supported.

Unlocking the potential of local justice components

Local justice initiatives have been important in Queensland's Indigenous communities for a range of reasons:

- because it is the members of Indigenous communities themselves who are best placed to plan and implement effective strategies to deal with their crime and justice problems
- as a strategy designed to reduce the overrepresentation of Indigenous people in the criminal justice system, particularly in custody
- to increase the scope for culture or local knowledge to be taken into account in justice processes
- to fill gaps in criminal justice service delivery in Queensland's Indigenous communities (Chantrill 1998; Cunneen, Collings & Ralph 2005; Fitzgerald 2001; Limerick 2002; O'Connor 2008).

However, local justice components of the criminal justice system in Queensland's Indigenous communities continue to face challenges despite numerous recommendations and commitments made for improvements over the years. Although efforts have recently been made to improve the functioning and sustainability of these local justice initiatives, problems continue to be apparent, especially in terms of the need for better resourcing and training to support these initiatives (see Cunneen, Collings & Ralph 2005; Loban 2006; O'Connor 2008).

Local justice initiatives have suffered from the lack of rigorous scrutiny given to assessing their effectiveness to date. The key task before them — to make an effective contribution to reducing crime and violence in their communities — is no easy one. Timely evaluations will help to ensure that resources can be allocated to effectively deal with these problems, and will also inform the development of innovative ways to go forward.

- A great deal of reliance appears to have been placed on community justice groups, largely on the basis of an early interim review which could only show that they had potential to make a contribution to crime prevention and the delivery of fair and accessible criminal justice services in Queensland's Indigenous communities. Although the department of Justice and Attorney-General (JAG) has been making efforts to improve the training and support provided to community justice groups in recent years, these groups continue to wrestle with problems of sustainability, capacity and their role. Given the nature of the crime problems confronting these communities and the longstanding gaps in service delivery, it is not surprising that the community justice groups, as they are currently conceived, continue to struggle to cope with the often competing demands that have been made on them.
- Little close examination has been made of the operation of JP Magistrates Courts and their evaluation is well overdue.
- There is a great deal of confusion and uncertainty about the role and future of 'law and order' by-laws, particularly since the decision was made to phase out community police and abolish QATSIP; this adds to the difficulties of ensuring that the JP Magistrates Courts are operating optimally.

We believe there must be a renewed commitment by all agencies and the community to support a model in which local justice initiatives play a role. There must also be a re-think regarding the future development of local justice initiatives. In particular, we believe, there needs to be a greater willingness to innovate to give these local justice components some real prospect of influencing the behaviour of community members. If this is not to be the case, then governments must take a far more realistic view, for example, of the extent to which local justice elements can contribute to the important task of reducing crime, violence and Indigenous overrepresentation in the criminal justice system.

Local justice components as a whole need to be revisited and supported to have a role in setting the standards of social behaviour — perhaps a partial role in enforcement, taking action to stop situations of offending and conflict from becoming larger problems, dealing with young offenders, mediating in local disputes and resolving conflicts.

We recognise also that there is no 'one size fits all' approach possible to implementation of local justice initiatives to meet the needs of Queensland's Indigenous communities. It is our suggestion that, at a local level, planning needs to take place with communities to ensure that an appropriate level of agreement and clarity exists in relation to the operation of local justice elements of the criminal justice system in each Indigenous community.

Resourcing a fair and accessible criminal justice system

Even if crime is successfully reduced, it will not be eliminated. For those who proceed through the criminal justice system from Queensland's Indigenous communities, we also must ensure that justice is served — that is, that resources are provided to ensure a fair and accessible criminal justice system.

Although there is widespread recognition of the desirability of taking justice to the communities, and there have been increasing efforts to do so, there remain considerable problems encountered in delivering criminal justice services to these communities. Although the 'Aurukun nine' rape case may be an extreme example, it is clear from our consultations and research that many of the problems seen in this case (including high workload of the courts and limited time, lack of interpreters and lack of victim impact statements) are widespread and not limited to the District Court circuits or to only one community.

A number of improvements have been, and are being, made to the delivery of justice services in Queensland's Indigenous communities and there has been an increase in resources devoted to the criminal justice system, especially over the past few years. However, there is still considerable progress to be made, especially in the following areas:

- continuing to monitor the demands on the circuit courts to ensure that justice is delivered in a timely manner, and identifying and pursuing strategies to improve the effective use of circuit time (for example, making use of videoconferencing where appropriate to minimise the time taken on circuits)
- ensuring that there is close liaison between the courts, the prosecution, other legal services and services such as interpreters to ensure that all parties have the capacity to participate effectively in the delivery of justice to these communities. That is, there is work to be done to ensure that the elements of the 'system' are operating in a way that ensures that all parties in the system are able to complement the work of other elements. We have demonstrated that at the moment this balance is not present, and that there is a significant mismatch between some elements.

There are areas that could benefit from increased resources, but we are reluctant to argue for an increase in the money spent at the 'back end' of the process — namely the criminal justice system — when the evidence so clearly shows that money spent at the 'front end' or early stages is more effective.

The challenge is to find an appropriate balance for the expenditure of criminal justice resources that provides an effective criminal justice system linked with effective local justice initiatives and counterbalanced by appropriate resources directed toward crime prevention, both within and outside the criminal justice system.

Part 5: Conclusions and recommendations

Throughout our report we have argued that the task of reducing crime and violence in Queensland's Indigenous communities is central to each of our three terms of reference. That is, reducing crime and violence in these communities is vital to the task of:

- improving relations between police and Queensland Indigenous communities
- reducing Indigenous overrepresentation in police custody, and thereby further substantially reducing the risks associated with such custody
- optimising the use of resources allocated to the criminal justice system.

In Queensland's Indigenous communities it appears that the high rates of crime and violence have spiralled upward over the past three decades, and at least since 1995 the high rates of crime and violence have remained impervious to the vast amount of government effort said to be directed at reducing them, or reducing Indigenous overrepresentation in custody. In our consultations, we heard the same clear message from community members desperate for support that has been noted in previous reports — 'we just want the violence to stop'.

Recent years have seen a very significant shift in government policy regarding Queensland's Indigenous communities. In the establishing of the Welfare Reform Trial and the Family Responsibilities Commission in selected Cape York communities, the Queensland Government has demonstrated a willingness to trial innovative approaches and impose strong controls and accountability mechanisms in respect to issues such as alcohol that have well-established links with crime and violence in communities. In terms of dealing with crime and violence in these communities, this radical change in policy must continue.

Government is limited: communities themselves must act

At the same time it is essential to recognise the limitations of government. Although we have highlighted throughout this report areas in which action is required from the Queensland Government, we have also taken some pains to emphasise the limits to what government itself can achieve.

We have identified areas in which we say police can do better, but we also say that police alone can only go a small way to solving the problems confronting these communities. We have highlighted actions that we believe should be taken by other Queensland Government agencies (notably ATSIS, the Department of Communities, the Department of Justice and Attorney-General, Queensland Corrective Services, other criminal justice agencies, Queensland Health and the Department of Education and Training). However, even in an ideal world of seamless government coordination, where the QPS is well supported by all other services and areas of government, success will continue to depend most heavily on changing the behaviour of individuals, parents and families at the community level. The police and the government are limited, for example, in what they can do to provide a nurturing and loving home for a child, or to provide Indigenous children with a home life that values and supports school-based education and, later, employment.

The will of individuals, parents and families in Queensland's Indigenous communities to change must also be ignited. This will not happen through more consultations and negotiations conducted by bureaucrats and others from outside the communities, more government announcements of policy frameworks, or more targets being set for reducing Indigenous disadvantage. Rather, there is a huge role to be played by community leaders and Indigenous organisations at the community and regional level (such as local councils, community justice groups, men's groups, women's groups, Elders and — in Cape York — the Cape York Institute for Policy and Leadership, Cape York Partnerships and the Apunipima Cape York Health Council). Individuals, parents and families must be motivated to change aspects of their behaviour, their values and, indeed, aspects of their culture such as the use of violence as an appropriate means of resolving conflict.

Government should see its role as providing vital funding support and capacity building. It must also provide communities themselves the appropriate 'space' — the powers, responsibilities and accountability mechanisms — to allow them to develop appropriate responses to their situation. Indigenous communities for their part must step up to the challenge so that real change can occur.

We have identified the following six principles to guide the relationship between government and people in Queensland's Indigenous communities.

1. Improve and maintain a focus on crime prevention

With the exception of the introduction of alcohol reforms and the Welfare Reform Trial and its Family Responsibilities Commission, there has been little or no sustained effort to reduce the level of crime and violence in these communities through implementing an appropriate range of strategies designed to tackle the underlying causes of crime. Too much faith has been put in the notion that tinkering with the criminal justice system will produce positive results. Such faith must be abandoned.

Given the many high-level commitments to preventive action that have been made already, government must focus more on supporting the development of appropriate strategies for on-the-ground implementation in communities.

2. Make a clear and sustained commitment across government for a criminal justice 'system' that incorporates local justice components

Crime prevention anywhere depends to a large extent on community ownership, support and involvement. Because local Indigenous people, families, community councils and other non-government Indigenous organisations must be at the centre of efforts to achieve genuine change, we recommend that real local authority must be developed and enhanced in Queensland's Indigenous communities.

Many members of these communities have been said to be characterised by their 'passivity', 'lack of will', 'lack of engagement' or as afflicted by the 'tragedy of tolerance' (Sutton 2009, p. 77). Dramatic efforts and innovations must be made to allow local authority to flourish so that problems of crime and violence can be truly tackled at the local level.

Local justice components must be given greater scope by government to be innovative and creative, and allowed to use a range of incentives and disincentives to motivate individuals, parents and families in their communities to change their behaviours, values and even, to some extent, their culture. Such a task should not be attempted by government itself. Local justice components need to be afforded real power and authority to do this work.

3. Ensure that crime prevention and the criminal justice system response to crime and violence in these communities is guided by strong local-level planning

Past governments have placed insufficient focus on making sure that the many high-level policy frameworks are translated into effective strategies and actions at the local level. If this is to happen, local-level planning must play a crucial role. Some real control must be given to communities to influence the shape of the crime and violence reduction strategies that may work for them.

For example, we have suggested that the community be involved in discussing and developing strategies to help improve relations with police (see Chapter 7), and as well as considering the mix of strategies to tackle the crime problem in each community. Police and community might want to jointly develop priorities and strategies regarding issues such as truancy, gambling, drinking while pregnant, and noise at night. Such planning should be included in a crime prevention and criminal justice component within the Local Implementation Plans (LIPs), which are currently the primary vehicle for place-based planning to occur between communities and the state and federal governments.

Local-level discussions necessary for developing strategies for local implementation should usually be led by people living locally, or by people with long-term experience with the community involved. We also believe that local police could play a significant role in discussion and capacity building for local-level planning related to issues of crime, justice, policing strategies and crime prevention. ATSIS should play a coordinating and accountability role.

Until effective local-level planning has been achieved, a moratorium should perhaps be placed on developing or announcing any further high-level state-based or national policy frameworks in this area, and attention should instead be directed to the local-level exercises.

4. Support local police to play a key supporting role

Police have been in the difficult position of working in communities experiencing a rapid breakdown in social order and a vacuum of authority since the end of the mission period. In addition, they have received some mixed messages about policing in these communities, particularly in relation to public order policing. We have shown that public order offending often involves violence or threats of violence and it is simplistic to characterise the high levels of public order offences in these communities as being a result of 'overpolicing' of minor and trivial matters.

The police have demonstrated their capacity to reform and change since the time of the Royal Commission into Aboriginal Deaths in Custody. Although they are certainly not all above reproach, the general picture to emerge from our inquiry is that police have made substantial changes in many important areas. It is time now to integrate the available evidence and experience in relation to policing and to develop a range of other strategies, rather than continuing to simplistically insist, for example, that increasing diversion will substantially reduce Indigenous overrepresentation in the criminal justice system and in incarceration.

Much is happening across government in relation to the issues being confronted in Queensland's Indigenous communities, and we believe that the police can play a greater role. Police must be key players in whole-of-government crime and violence prevention efforts because they:

- are 'on the ground' and provide a key government presence in most of Queensland's Indigenous communities
- sit at the juncture between early intervention and the criminal justice system, acting as the first gatekeepers to the criminal justice system
- deal with the crime problems at a day-to-day level and therefore have a lot at stake when it comes to reducing the crime problems in these locations
- already have within their 'toolkit' the formal POPP framework, within which they can take a problem-solving approach and develop the partnerships necessary.

5. Conduct rigorous and timely evaluations of key initiatives and appropriate monitoring and reporting

As is stated by Weatherburn (2004), what is needed is a criminal justice system and crime prevention policies that are not driven by emotion and supposition, but are a rational and systematic response based on what might work to prevent crime. Increasingly it is recognised that we need 'evidence-based' criminal justice and crime prevention policy built on evaluative research on the effectiveness or possible effectiveness of respective programs or strategies. To this end, carefully selected and targeted independent evaluations, conducted in a rigorous and timely way, can provide vital information to government and communities.

Currently Queensland has no standing facility for evaluating the effects of government programs and policies on rates of re-offending. Nor does Queensland have a crime prevention unit equipped with the resources and authority to influence the development of policy and programs as is needed, or to broker agreements with the private sector on matters affecting crime. Queensland's Indigenous communities are likely to have suffered as a result.

Greater efforts to evaluate the effectiveness of programs and strategies in Queensland's Indigenous communities are warranted. Governments have an important role to play in supporting the continuing development of our knowledge about 'what works' in terms of strategies that effectively reduce crime and violence and other dysfunction in Indigenous communities. The Queensland Government has two key roles in this respect:

- continuing to develop an understanding of the dimensions of crime and violence problems at the individual community level, a task that government has begun with the provision of quarterly reports
- ensuring that funding for research and evaluation in this area supports research and evaluation that relates directly to the question of 'what works' to reduce crime and violence.

6. Be prepared to innovate

Innovation must be encouraged — the staggering size of past failures in this area calls for bold thinking. To continue to do 'more of the same' will only see the situation deteriorate further. Although innovation will carry with it risks and controversy, it may not make the situation worse (which will surely happen if we continue with the old approaches), and it may lead to some positive results. It is important that significant innovations are properly evaluated.

Recommendations and actions

Each of the principles we have identified above is associated with a recommendation and a number of action items that have been identified throughout the report. Our six recommendations provide the 'big picture' for the 51 action items that we identify. Implementing these recommendations will require sustained effort, bold action and in some cases the allocation of further resources.

The following table brings together the six recommendations and the 51 actions. The recommendations have been built on the action items so there is some degree of overlap. We have grouped the action items that appear throughout the report under the recommendation to which they are most closely related in the order in which they appear in the text. We have numbered the actions as they appear in this summary.

It must be noted that some actions could have been placed under several recommendations, for example, some actions relate to crime prevention, local planning and improved policing and relations. Indeed each of the recommendations is closely connected to our key goal of crime prevention and in a sense they all could have been labelled as such.

Crime prevention

Recommendation 1

That the Queensland Government's focus on effective crime prevention in Queensland's Indigenous communities should be greatly increased and improved including by:

- abandoning the over reliance on strategies unlikely to exert a substantial crime prevention effect as the key means through which Indigenous overrepresentation in the criminal justice system is tackled; for example:
  - Murri Court processes may have other important outcomes, but they are unlikely to greatly reduce crime or violence
  - simply increasing police diversion from the criminal justice system in these communities is also unlikely to have a substantial impact on crime
- developing an appropriate mix of crime prevention strategies based on existing evidence about what might work to prevent crime:
  - outside of the criminal justice system; these must include strategies focused on early intervention, such as parenting programs, home visiting services and school-based programs, as well as social marketing campaigns
  - within the criminal justice system to maximise its potential crime prevention effect; for example, improving the availability and effectiveness of youth justice conferencing, community-based supervision, treatment and rehabilitation, and support for reintegration of offenders. More effort and resources should be directed at those likely to be at the highest 'risk' of offending in these communities — that is, existing repeat offenders — and developing interventions for these offenders that focus on providing supervision, treatment and other support at sufficient levels of intensity that they work to prevent crime.

Actions

1. That the focus on effective crime prevention in Queensland's Indigenous communities should be greatly increased and improved.

   (see Chapter 8)

2. That police be encouraged to make increased use of community conferencing as a way of proceeding against juvenile offenders. We have noted elsewhere that the Department of Communities should expand the availability of conferencing.

   (see Chapter 13)

3. That a greater preventive focus on failure to appear in court, and other breach of justice process offences where appropriate, be developed by police and community justice groups. In those communities with high levels of justice process offences, such strategies should be incorporated into the crime prevention and criminal justice component of local plans.

   (see Chapter 13)

4. That:
   - The Queensland Government and ATSIS ensure that an appropriate mix of crime prevention strategies outside the criminal justice system is implemented in each of Queensland's Indigenous communities, with a particular focus on the implementation of evidence-based early intervention strategies.
   - Along with its role in coordinating government, ATSIS assist where necessary in facilitating the development of partnerships with communities, community organisations, the private sector, universities and others to ensure that the best expertise is applied to the problems.

   (see Chapter 15)

5. Support to parents and carers in Queensland's Indigenous communities should include nurse home visits for new mothers and carers, based on the Professor Olds model. Similar home visiting services that depart substantially from the model shown to be effective elsewhere must be rigorously evaluated so that we can build a body of evidence about what is effective in these communities.

   (see Chapter 15

6. That parents, families and carers in Queensland's Indigenous communities should have increased exposure to programs that provide support and skills for parenting, such as the Triple P — Positive Parenting Program.

   (see Chapter 15)

Crime prevention (continued)

Recommendation 1	Actions
	7. The pre-Prep program in Queensland's Indigenous communities should be reviewed and efforts should be made to incorporate aspects of the effective Perry Preschool program, including the weekly home visits to parents to provide advice on parenting and practical and emotional support. (see Chapter 15)
	8. Efforts should be made to engage the private and university sectors in developing and offering school and community-based programs to provide incentives for school attendance and achievement, and disincentives also. The success enjoyed in a relatively short space of time by Cape York Partnerships and the Cape York Institute for Policy and Leadership in forming partnerships in this area should provide a positive model. (see Chapter 15)
	9. More use, and more creative use, of social marketing campaigns in Queensland's Indigenous communities could work to reduce crime. Campaigns may relate to issues such as: • the inappropriateness of violence as a means to resolve disputes • non-violent parenting and modelling non-violent behaviours • school attendance and performance. The Queensland Government should engage the expertise of advertising agencies, public health professionals and the university sector to develop and trial such a campaign with appropriate community involvement. (see Chapter 15)
	10. That the Queensland Government (especially ATSIS, the Department of Justice and Attorney-General, Youth Justice Services (Department of Communities) and Queensland Corrective Services (Department of Community Safety)), ensure that the criminal justice system in Queensland's Indigenous communities is organised to exert the strongest possible crime prevention effect based on the existing evidence about what works to prevent crime. (see Chapter 16)
	11. That, as a matter of priority, the Department of Communities and Queensland Corrective Services continue to increase the allocation of resources to improve: • community-based support, supervision and treatment programs for offenders in Queensland's Indigenous communities • programs within prisons and detention centres to provide treatment and intervention for offenders from Queensland's Indigenous communities. (see Chapter 16)

Crime prevention (continued)

Recommendation 1	Actions
	12. That the Queensland Government provide greater support to restorative justice services in Queensland's Indigenous communities: • That the Department of Communities urgently provide a sustained and sustainable youth justice conferencing program able to provide timely diversion to a process that addresses offending within a restorative justice framework. • That the Department of Justice and Attorney-General continue to support the trial and evaluation of community-based mediation and dispute resolution processes in Queensland's Indigenous communities. (see Chapter 16)
	13. The Queensland Government must ensure that the future allocations of criminal justice resources are appropriately balanced with resources allocated to prevent crime, both within the criminal justice system and outside of it. (see Chapter 18)

Local authority

Recommendation 2	Actions
That there be a clear and sustained commitment to supporting and developing effective forms of local authority in Queensland's Indigenous communities to respond to crime, violence and related issues. This must include: • clear and sustained support for a model for criminal justice system services that includes local justice components of local people in policing roles, local laws, local courts and community justice groups • allowing the flexibility for communities themselves, with community justice groups to play a key deciding role, to determine what combination of local justice mechanisms will operate in their community • a greater willingness to allow local justice initiatives to develop their roles or have the powers necessary to change the standards of behaviour in their communities — for example, being able to promote changes in individual behaviour through systems of incentives and disincentives. Because of the potential benefits, a commitment to making such a model work must be sustained in the face of the challenges that will inevitably arise and the risks that will be attached.	14. Recruiting Indigenous sworn police from Queensland's Indigenous communities should be a specific focus of the QPS's Indigenous recruitment strategies and programs. Targets should be set for recruitment of Indigenous sworn police from Queensland's Indigenous communities; to be realistic they need to be relatively long term. Block intakes for a number of Indigenous recruits, allowing them to support one another during training, should be considered. (see Chapter 10)
	15. The Queensland Government and the QPS should commit to supporting a model, which improves on the QATSIP model, for local people in Queensland's Indigenous communities to be appropriately trained and supervised so that they can play an active role in law enforcement and other policing activities in their own communities. The officers should be employed, trained and supported by the QPS. This role: • should not be limited to the enforcement of by-laws • need not automatically exclude all potential applicants who are local people with prior criminal convictions • should be seen as of particular importance in the Torres Strait Islands, where it can be an important supplement to the policing services otherwise provided by the QPS. Training for local Indigenous people to perform these roles should be designed specifically with Indigenous learning styles in mind. (see Chapter 10)

Local authority (continued)

Recommendation 2

Actions

16. That the Queensland Government commit to an agreed model for the delivery of a cohesive criminal justice 'system' in Queensland's Indigenous communities, and that this model should include local justice elements such as local laws, local Indigenous police and local courts.

(see Chapter 17)

17. The Department of Justice and Attorney-General must conduct the much overdue evaluation of the JP Magistrates Courts that has been proposed on numerous occasions. This evaluation of the JP Magistrates Courts must be designed in a way that will allow JP Magistrates Courts to be considered as one possible element in a local justice system. Among other things the evaluation should:
    - compare the operations of the courts in those communities that have local 'law and order' by-laws, and/or local Indigenous police (community police or QATSIP), with the operations of courts in those that do not
    - assess the extent to which the JP Magistrates Courts can reduce the demands on the circuit courts
    - consider how the capacity of JP Magistrates Courts might be enhanced to deal creatively and responsively with local problems.

(see Chapter 17)

18. That the Department of Justice and Attorney-General, with the support of the other departments for which the statutory community justice groups perform functions, undertake a review of the various roles and functions of those community justice groups (that is, those in Queensland's Indigenous communities) to determine how they can most effectively contribute to the delivery of crime prevention and criminal justice services in each community. The review should also examine:
    - how to deal with conflicts of interest between the various roles and functions of community justice groups
    - the extent to which community justice group members should be paid
    - the extent to which other agencies can, or should, contribute to funding and capacity building for the groups.

(see Chapter 17)

19. That the Department of Infrastructure and Planning and ATSIS conduct the review of local 'law and order' by-laws in conjunction with, rather than in isolation from, the evaluation of the JP Magistrates Courts. The review should be premised on the notion that local justice components have the potential to make an important contribution to dealing with the crime and violence problems in Queensland's Indigenous communities, but that we may need to be more innovative in our approach if this potential is to be realised.

(see Chapter 17)

Local-level planning

Recommendation 3

That local-level planning and the development of strategies to be implemented at the local level to reduce crime and violence should be a priority placed ahead of any further high-level or overarching policy frameworks. This could be a crime prevention and criminal justice (including policing) component of the current Local Implementation Plans (LIPs).

- Local-level planning should not be led by bureaucrats on a fly-in fly-out basis conducting a series of planning meetings — people living locally or with strong local associations and with skills in conducting robust community consultations should be employed to develop particular aspects of the plan. Local police should assist.
- Local planning processes must build community capacity to understand the range of potential solutions to reducing crime and violence based on the evidence about what works and which we have outlined in this report.
- Real control must be ceded to communities to develop, adapt or invent strategies to meet local needs and circumstances.
- Government must be responsive to this planning in terms of allocating funds. Local-level plans must be ongoing and the focus on them must be sustained over time; they should provide an accountability mechanism.

Actions

20. Strategies agreed by particular communities and their police to help improve relations must be documented in local-level plans so that progress is monitored and publicly reported.

(see Chapter 7)

21. In accordance with good community policing practice, each of Queensland's Indigenous communities and their local police must discuss and agree on a number of crime priorities and policing strategies on a regular basis — at the very least, whenever any new OIC is appointed. These priorities and strategies must be documented in local-level plans:
    - crime data at the community level (including 'law and order' by-law offence data where relevant), as well as evidence about the effectiveness of various policing strategies, should form the basis of these regular discussions between local police, other relevant Queensland Government agencies and members of Queensland's Indigenous communities; such discussions must build community capacity in this regard
    - the discussion and agreement of crime priorities and strategies in the local plans should inform the allocation of policing resources by the QPS to particular communities.

(see Chapter 9)

22. That specific issues to be addressed within the crime prevention and criminal justice component of the local-level plans should include:
    - the agreed model for the operation of the criminal justice system in each Indigenous community
    - the extent to which local justice initiatives such as the community justice groups, the local 'law and order' by-laws and the local JP Magistrates Courts will play a role in the delivery of justice services
    - the role of the community justice group in each community, including its capacity to provide dispute resolution services, advise courts on sentencing, assist in the supervision of offenders in the community and so on, and the circumstances in which it can do so
    - how offenders should be dealt with — for example, the circumstances in which offenders should be charged with by-law offences and taken before the local courts, and those in which they will be proceeded against for criminal offences before the mainstream courts.

(see Chapter 17)

Improved policing and relations

Recommendation 4

That the QPS create a new structure, an Indigenous Partnership Policing Command (IPPC) to be led by a person at the rank of Assistant Commissioner, to support the implementation of improvements in the policing of Indigenous communities.

The role of the IPPC will be to address both issues internal to the QPS (such as recruitment, training and other support) and those that are external (relating to the need for a whole-of-government approach to improve outcomes in Queensland's Indigenous communities). In particular, the IPPC must:

- send a clear and consistent message to Indigenous communities and its officers that the QPS takes the priority of improving relations with Queensland's Indigenous communities to be of utmost importance
- support local police and community members (particularly members of the community justice groups) in identifying strategies in the local-level plan including:
  - strategies to improve relations
  - local crime priorities and strategies to respond
- ensure that, in addition to law enforcement, problem-solving and partnership approaches are a central driving philosophy of all policing in these communities
- implement strategies to support the development of special knowledge and skills for those involved in policing Indigenous communities, including through strategies such as:
  - developing mentoring programs for those working in these communities so that officers can have direct access to the knowledge and experience of some of the 'legends' or well-respected police officers with experience working in Queensland's Indigenous communities
  - convening regular workshops or conferences for officers working in Indigenous communities
- develop and implement a model, which improves on the QATSIP model, for local people in Queensland's Indigenous communities to play an active role in law enforcement and other policing activities in their own communities.

Actions

23. Improving police relations with Queensland's Indigenous communities must be an ongoing priority:
    - the QPS needs to send a clear and constant message to Indigenous communities and to its officers that it takes the priority of improving relations very seriously
    - the QPS must recognise that the issue of relations in these communities cannot be approached on the same basis as it is in other parts of Queensland
    - the members of the QPS Senior Executive (that is, at the rank of Commissioner and Assistant Commissioner) must personally champion this priority across all of Queensland's Indigenous communities — for example, through periodic visits to talk with local police and community leaders about relations.

    (see Chapter 7)

24. Indigenous councils and other community leaders must consider that it is their responsibility to assist in building the community's relationships with police.

    (see Chapter 7)

25. That, in so far as it is possible, the Queensland Government give high priority to the finalisation of all outstanding litigation relating to the Palm Island matter; the goal should be to have all outstanding matters settled by the sixth anniversary of Mulrunji's death, in November 2010. After the litigation is finalised, the Queensland Government, the QPS and the Palm Island community should consider what specific steps can be taken to help move forward on Palm Island.

    (see Chapter 7)

26. That the QPS clearly communicate to police working in Queensland's Indigenous communities:
    - the need to be keenly aware of the dangers to relations associated with incidents of overpolicing
    - that violence or threats of violence may frequently warrant police intervention and police can appropriately exercise their discretion as to whether such behaviour can or should be charged as a public order offence or some other more serious criminal charge
    - that the greatest risks in relation to public order offences attach to the policing of those behaviours that are at the most minor end of the spectrum — for example, offensive language only, especially where this language is directed at police.

    That the QPS undertake ongoing monitoring of these aspects and encourage officers to use their skills to 'de-escalate' public order situations, particularly those at the most minor end of the spectrum.

    (see Chapter 8)

Improved policing and relations (continued)

Recommendation 4	Actions
	27. In accordance with good community policing practice, the QPS should take steps to address the concerns about inadequate police availability and response by, for example: • remaining in touch with views of local police and communities about whether the level of police services is adequate, especially in the wake of the decision to phase out community police and QATSIP (see Chapter 10) • ensuring that every police station has regular and well-advertised opening hours • educating community members about call diversion, about the importance of not hanging up when a call is diverted and about how a communications centre operator will assess whether it is necessary to call local police out to assist • providing a program of regular cultural education and training to QPS communications centre operators about Queensland's Indigenous communities; this training should include training about the difficulties involved for callers from these areas in having their calls diverted, and the importance of carefully communicating and assessing these calls, as well as practical information such as community maps, and common family names and pronunciations for some communities where traditional names remain common (for example, Aurukun, Pormpuraaw and the Torres Strait Islands) (see also Chapter 11 regarding cultural training). (see Chapter 9)
	28. In accordance with providing good community policing, that the QPS devise measures or incentives that encourage officers in Queensland's Indigenous communities to participate in community life; a clear message needs to be sent from the service that this is an important aspect of policing in a small community. For example, one option may be for the QPS to encourage participation in sport and recreation activities by supporting officers to participate in such activities during work time rather than in their own time, or by supporting them in obtaining a coaching qualification. That the Indigenous local councils, community justice groups and community members actively seek to engage with police and issue invitations to, or advise them of, community events and activities. (see Chapter 9)

Improved policing and relations (continued)

Recommendation 4	Actions
	29 That the QPS ensure that police are focused on the importance of improving perceptions of fairness and police legitimacy in Queensland's Indigenous communities, particularly in relation to ensuring that procedural fairness is done, and is seen to be done, wherever possible. There is obvious scope for specific programs to be developed in relation to traffic offences, alcohol restrictions and relatively minor public order offences. Options include local police committing to: • programs that follow the Educate, Implement and Enforce approach described above • a program that focuses on providing offenders, whenever possible, with an opportunity to meet with the OIC, who could explain the program, outline why they have been arrested, give them a chance to express their views, listen respectfully to them and answer any questions (see, for example, Sherman & Eck 2002, p. 315). (see Chapter 9)
	30. That the Queensland Government and the QPS require OICs in Queensland's Indigenous communities to make greater efforts to match rostering to those times when crimes are most likely to be committed. That regular targeted patrols that are brief in their average duration and unpredictable should form a standard part of police practice in these communities. These patrols should be used wherever possible with problem-specific tactics (such as POPP). Patrols should be seen as a key opportunity for increasing community engagement. (see Chapter 9)
	31. As part of its improved focus on crime prevention, that the QPS promote problem-solving and partnership approaches to policing as a central philosophy for effective policing in Queensland's Indigenous communities. This should include, but not be limited to, POPP projects. The QPS should consider: • increasing its support for evaluating problem-oriented and partnership strategies and devising methods to share knowledge across the service about effective strategies to inform other locations or contexts • publicly reporting on problem-solving and partnership approaches and their effectiveness, perhaps in the Queensland Government's quarterly reports on key indicators (see Appendix 2 (June 2008)). (see Chapter 9)

Improved policing and relations (continued)

Recommendation 4	Actions
	32. That: • Police continue to build on their previous involvement in providing sport and recreation programs in Queensland's Indigenous communities, as these have largely been seen as positive initiatives, are well received by community members and provide an important site for problem-solving, effective community engagement and capacity building. The Mornington Island PCYC provides an excellent example of such a model. • Given the ability of the QPS to reliably sustain sport and recreation services in Queensland's Indigenous communities, greater support should be provided to the QPS to expand and develop its services along these lines. The Queensland Government and the Department of Communities (which now includes Sport and Recreation Services) should provide such support to the QPS. • Given their long history, their cost and the lack of available evidence for the crime prevention effectiveness of initiatives such as PCYCs, greater effort should be made to evaluate these programs in Queensland's Indigenous communities. (see Chapter 9)
	33. Given the scale of violence problems in Queensland's Indigenous communities, the QPS should consider implementing and evaluating a project based on a tiered approach to reducing repeat victimisation of domestic violence. Such a project could be negotiated and agreed with the community through the Negotiation Table and local planning process. (see Chapter 9)
	34. The practice of six-monthly rotations should be seen by the QPS as a short-term stop-gap solution to recruitment and retention problems. A longer-term package of strategies must be developed that will better meet the expectations of communities that officers stay long enough for them to get to know them and to be able to make a valuable contribution to policing of the community. (see Chapter 11)
	35. That the Queensland Government continue to give high priority to the improvement of QPS accommodation in Queensland's Indigenous communities. In particular, the ongoing problems at Woorabinda must be immediately resolved. (see Chapter 11)
	36. That the QPS review the need for security compounds with a view to removing, wherever possible, high barbed-wire fencing and replacing it with other less intrusive security measures, so as to reduce the perception of police officers being isolated, defensive and unengaged with the community. (see Chapter 11)

Improved policing and relations (continued)

Recommendation 4	Actions
	37. Cultural training must be compulsory for all officers serving in Queensland's Indigenous communities. The development of cultural competency should be seen as a key ongoing professional development priority of officers working in Queensland's Indigenous communities, particularly for those who may wish to pursue a specialist interest in this area. Strategies to provide this ongoing support may need to be developed on a community-by-community basis, working with the community concerned and the local police. (see Chapter 11)
	38. The QPS should implement strategies to support the development of policing Indigenous communities as an area of policing requiring some special knowledge and skills, including by: • convening an annual conference or workshop for officers interested in policing Indigenous communities • implementing a mentoring program for those police developing special expertise in policing Indigenous communities (especially those serving for the first time as OICs), involving some of the 'legends' or well-respected police officers with experience working in Queensland's Indigenous communities • encouraging local community members to be involved in mentoring police officers in each community. (see Chapter 11)
	39. That the QPS introduce: • as a minimum requirement, that part of the induction of all new officers to a community must include an introduction to key members of the community, including members of the local council and the community justice group • in some communities, a trial of door-to-door introductions of new officers as part of the community's local induction process. The community has supporting obligations in this regard. Where a request has not already been made by police for introductions of new officers, local councils and community justice groups must extend an invitation to police to come and introduce themselves. Where they exist, local community members acting as mentors could facilitate introductions to key members of the community. (see Chapter 11)

Improved policing and relations (continued)

Recommendation 4	Actions
	40. Given that there is very little known about what is effective in cultural training, and the importance of the issue, it is our view that future QPS efforts in this regard should be rigorously evaluated. However, building our understanding of the effectiveness of cultural training is a major task that should not be left to the QPS alone but should be a Queensland Government-wide endeavour. As part of such a project, the assessment of officers on the development of their cultural competence should be considered. In the meantime, minimum assessment criteria could be developed, including measures such as if the officer has: 1. Established a good working relationship with the local Indigenous people in policing roles (such as PLOs) 2. Met and established working relationships with the local council 3. Acquired some understanding of who the key people are to talk to in relation to matters affecting particular families. (see Chapter 11)
	41. That the QPS establish an internal selection unit or program focused on recruiting officers suitable to work in Queensland's Indigenous communities and providing assistance to resettle them there. (see Chapter 11)
	42. That the QPS create a new structure dedicated to the issues relating to Indigenous policing. This new structure, the Indigenous Policing Partnership Command, is to be led by a person at the rank of Assistant Commissioner. Its role will be to address the issues we have identified throughout this report — both those internal to the QPS and those that are external and relate to the need for whole-of-government action to improve Indigenous outcomes. The development and operational detail of the command should be undertaken by the QPS, with assistance from the CMC as required, as discussed above. (see Chapter 12)
	43. That the QPS conduct a program of regular audits of police inspections of prisoners in cells by means of digital CCTV footage in order to determine the frequency of inspections being carried out in person, and the frequency with which verbal response is sought from those prisoners who are awake. (see Chapter 14)
	44. That the QPS introduce a requirement that all incidents of a detainee being left unattended in a watch-house must be recorded and audited by the QPS. (see Chapter 14)

Improved policing and relations (continued)

Recommendation 4	Actions
	45. That the review of the roles and functions of community justice groups proposed in Chapter 17 specifically consider the extent to which the community justice group coordinator and/or members can contribute to the provision of a sustainable cell visitor scheme in each of Queensland's Indigenous communities. (see Chapter 14)
	46. That the viable options for involving community members in the supervision of watch-houses in Queensland's Indigenous communities are: • in some stations where the watch-house workloads warrant it, employing local community members as civilian watch-house assistants on a permanent basis • training Indigenous people in policing roles to perform a watch-house assistant role in Queensland's Indigenous communities; it is then possible that they could provide supervision to prisoners in the absence of police where such absence is a matter of operational necessity. (see Chapter 14)

Evidence-based policy and evaluation

Recommendation 5	Actions
That the Queensland Government refocus its approach to criminal justice policy to build a more rational evidence-based response to crime. (The failure to make inroads in reducing Indigenous overrepresentation is due to the failure of governments to have such an approach.) In particular, the Queensland Government must enhance its capacity to learn from rigorous evaluations of the effects of government programs and policies on rates of re-offending and must ensure that it supports research that relates directly to the question of 'what works' to reduce crime and violence.	47. In 2011, the CMC will review how effectively police stations in these communities are using, managing and supporting Indigenous people in policing roles. The results should be publicly reported and should be reported back to the communities themselves. (see Chapter 10)
	48. That the rigorous evaluation of local justice initiatives in order to better inform their development should receive greater priority than has been the case in the past. The evaluations should be premised on the notion that local justice components have the potential to make an important contribution to dealing with the crime and violence problems in Queensland's Indigenous communities, but that we may need to be more innovative in our approach if this potential is to be realised. (see Chapter 17)
	49. The crime prevention and criminal justice (including policing) component of the local plans will be independently audited at the local level by the CMC in 2013 (in a way similar to the audits of local-level policing plans for Indigenous communities that have been conducted by the NSW Ombudsman (NSW Ombudsman 2005)); the audits should assess whether police are pursuing strategies that could reasonably be expected to maximise their crime prevention effect and to police in a way that is likely to improve relations. (Chapter 9)

Innovation

Recommendation 6	Actions
Governments should encourage substantial innovations to respond to the particular circumstances of Queensland's Indigenous communities that may have a crime prevention effect; to continue to do 'more of the same' when what we have been doing has not been working, is not an option. Further innovations of the kind already developed by the Cape York Institute of Policy and Leadership (CYIPL), are to be encouraged and appropriately evaluated.	50. That the Queensland Government facilitate partnerships and provide support to them, to encourage innovation in the area of the development and implementation of crime prevention strategies for implementation on the ground in communities. Local and regional organisations such as Cape York Partnerships, CYIPL and the Apunipima Cape York Health Council, should be supported to develop innovations and partnerships in this area. (see Chapter 15) 51. That the Queensland Government facilitate the development of partnerships, and provide support to them, to encourage innovations making local justice components more effective. (see Chapter 17))

NOTES TO READERS

This report is large and we understand that it will not necessarily be read from start to finish. However each part of the report can stand alone — although there are close links between them — and to some extent this is also the case with each chapter.

The report includes several types of materials, which will have interest and value for different readerships:

- We direct readers with an interest in policy particularly to Chapter 2 and Appendix 2, which together provide a comprehensive survey and analysis of previous policy in Indigenous issues and the lessons learned.
- Police officers, trainers and community workers may find Chapters 7 and 8 the most immediately accessible, highlighting the experiences and comments of those who have served in Queensland's Indigenous communities.
- Those with an interest in research regarding policing strategies and the effectiveness of crime prevention strategies are particularly directed to Chapters 9, 15 and 16.
- Indigenous people and others interested in the involvement of local Indigenous people in policing and other forms of local authority will be keenly interested in Chapters 10 and 17.

Because of the range of material, and of likely audiences, individual readers may wish to first survey the report as a whole through the contents, summary and overview (see below), to identify the material and starting points that will be most relevant to them.

Overview of the report

Our report is in five parts:

Part 1 provides general information relevant to the inquiry. It includes information on:

- the events that triggered the inquiry and how we conducted it (Chapter 1)
- 20 years of reports and policy initiatives attempting to remedy problems of policing, crime and justice in Indigenous communities (Chapter 2)
- the general characteristics of Queensland's Indigenous communities, including their locations and the available infrastructure and services (Chapter 3)
- the patterns of crime in Queensland's Indigenous communities (Chapter 4)
- research evidence on the underlying causes of crime (Chapter 5)
- policing and other services available to respond to crime and other closely related issues of dysfunction in Queensland's Indigenous communities (Chapter 6).

Part 2 provides our response to the inquiry's first term of reference about how to improve relations between police and members of Queensland's Indigenous communities. This part includes an examination of:

- relations between community members and police and the historical context in which they must be understood (Chapter 7)
- a discussion of the respective contributions that 'overpolicing', 'underpolicing' and high crime levels make to the tension in these relations (Chapter 8)
- how the Queensland Police Service (QPS) can provide 'more' policing in a way that will not further damage relations but improve them (Chapter 9)
- the important but difficult contribution of Indigenous people in policing roles (Chapter 10)

- the preparation and support provided by the QPS to police in Queensland's Indigenous communities in terms of cultural competence, recruitment, accommodation and incentives (Chapter 11)
- our proposal for a new structure within the QPS to focus on improving Indigenous policing (Chapter 12).

Part 3 provides our response to the second term of reference about detention in police custody in Queensland's Indigenous communities. We consider:

- how often Indigenous people are detained in police custody in Queensland's Indigenous communities and for what reasons are they detained (Chapter 13)
- custodial health and safety issues, including the supervision and management of police prisoners (Chapter 14).

Part 4 responds to our third term of reference, focusing on how resources might be allocated for more effective crime prevention. We examine:

- crime prevention outside the criminal justice system (Chapter 15)
- crime prevention within the criminal justice system (Chapter 16)
- the unrealised potential of local justice initiatives (Chapter 17)
- how to provide resources to ensure a fair and accessible criminal justice system in Queensland's Indigenous communities (Chapter 18).

Part 5 states our conclusions and recommendations on how to reduce crime and violence in Queensland's Indigenous communities. In Chapter 19 we:

- outline what is needed for the underlying causes of crime and violence to be tackled effectively
- put forward six principles for reducing crime and violence, each of which is associated with a key recommendation and a number of action items identified throughout the body of this report.

Part 1:
Background

From the time of the Royal Commission into Aboriginal Deaths in Custody until today, the issues of relations between police and Indigenous people, the detention of Indigenous people in police custody and the overrepresentation of Indigenous people within the criminal justice system have been emblematic in Indigenous affairs in Australia.

The events that triggered this inquiry brought a focus on these issues in Queensland's Indigenous communities in particular. The problems relating to police, crime and the criminal justice system in these communities are in many ways unique in terms of both their scale and their nature.

These communities are now frequently referred to as 'dysfunctional'. Other descriptors applied by those with close connections to the communities include that these are communities in 'dire straits', in 'crisis', are 'hell holes' or are 'outback ghettos' (see Sutton 2009). Such terms are universally applied in the context of the evidence of the high levels of violence and abuse perpetrated by members of these communities on each other.

Others argue that violence, abuse and alcohol have become the 'over-determined' features of Aboriginal life — leaving the impression that remote Australia is a drunken lawless place with no social norms, and obscuring the fact that functional families, strong leadership and local success stories do exist (Anderson 2007).

The increase in dysfunction whereby 'once liveable and vibrant' communities have become 'disaster zones', has occurred rapidly but only recently in many Cape York communities (that is, within the last three decades). Whereas, communities further south, such as Palm Island, had well established reputations for high levels of violence and crime predating by some decades those further north (Sutton 2009, p. 3).

Given the small populations of Queensland's Indigenous communities (the 17 Aboriginal communities have a total population of 14 800 and the 20 Torres Strait Islander communities have a total population of 8500), it is difficult to comprehend how the huge amount of policy effort and government funding over the past 20 years or so has not achieved better outcomes, and has in fact been accompanied by statistics that tend to suggest the problems have gotten worse.

Part 1 of this report takes the vital first step in our task of addressing policing and other criminal justice issues in these communities by developing:

- an understanding of the broad frameworks and approaches that have been taken to these issues at a national and state level
- a picture of the unique circumstances that apply in these communities, including their general characteristics, their crime patterns and their criminal justice systems.

1

THE INQUIRY

In February 2007, the Government of Queensland asked the Crime and Misconduct Commission (CMC) to conduct an independent inquiry into policing in Queensland's Aboriginal and Torres Strait Island communities.

This chapter outlines the key events leading up to the inquiry, its terms of reference, and the methods used to conduct it.

What events led to this inquiry?

The referral of this inquiry to the CMC followed a series of events that involved police working in Indigenous communities. The two principal catalysts were:

1. On 19 November 2004, Cameron Doomadgee (Mulrunji)[1] died in police custody on Palm Island after his arrest for allegedly creating a public nuisance. On 26 November 2004, the results of the first post-mortem performed at Cairns Base Hospital mortuary were released at a large community meeting on Palm Island, showing that Mulrunji had four broken ribs, a ruptured spleen and a liver 'cleaved in two' (Clements 2006, p. 7). The community meeting heard that the autopsy report included the observation that 'initial investigations could not exclude that the cause of the deceased's injuries was an accident' (*Clumpoint v. Director of Public Prosecutions (Qld)* [2005] QCA 043 at [1]; see also *R. v. Lex Patrick Wotton (Qld)* [2008] DC Transcript, Townsville, 7 November, Shanahan DCJ).

   A riot then erupted involving up to 300 residents. Rocks, bricks and other objects were thrown at police officers and the police station. Police were threatened and demands were made that they leave the island. The police station, courthouse and police accommodation buildings were destroyed and burnt. The police later estimated the replacement value of these buildings to be $3 million. A police car was also stolen and burnt. Police later stated that they feared for their lives and were prepared to fire on the rioters if necessary to preserve their own life. The rioting lasted several hours and afterwards it was noted that it was 'miraculous that no-one was seriously physically injured' (*R v. Poynter, Norman & Parker; ex parte A-G (Qld)* [2006] QCA 517 per McMurdo P at [71]).

   An emergency was declared by police and more than 100 police, including a contingent from the state's elite Specialist Emergency Response Team (SERT) and Public Safety Response Team (PSRT), were sent to the island to restore order, secure the airstrip and arrest the rioters. After the riot, 35 people were arrested and charged with offences ranging from arson to riotous behaviour (*Clumpoint v. Director of Public Prosecutions (Qld)* [2005] QCA 043; *R v. Poynter, Norman & Parker; ex parte A-G (Qld)* [2006] QCA 517; *R v. Wotton* [2007] QDC 181).

   On 27 September 2006, the Acting State Coroner delivered her Finding of Inquest, including that Mulrunji died in a cell at the watch-house on Palm Island at about 11 am on 19 November 2004 from internal injuries caused by the actions of arresting officer Senior Sergeant Hurley (Clements 2006, p. 27; see also p. 30).

   On 14 December 2006, after consideration of material received from the Coroner's Office and some further material, the then Director of Public Prosecutions, Leanne Clare, announced her decision not to institute any criminal proceedings in relation to Mulrunji's death as she concluded that the only satisfactory explanation for the fatal injury was an

1 At the coronial inquest the deceased's family requested that he be referred to as Mulrunji rather than as Cameron Doomadgee; we have complied with this request throughout the remainder of this report (see transcript of proceedings, Coroner's Court, 8 February 2005, Palm Island, p. 6).

accidental fall, and that 'the admissible evidence suggests that Mr Doomadgee's death was a terrible accident' (Office of the Director of Public Prosecutions 2006).

On 4 January 2007, the Attorney-General retained former NSW Chief Justice Sir Laurence Street to provide a second opinion. On 25 January 2007, Street (2007) reported that there was both sufficient evidence and a reasonable prospect of conviction by a reasonable jury if criminal proceedings were instigated. It was shortly after Street's decision that we were requested to conduct this inquiry.

Subsequently, and while our inquiry was under way:

- Senior Sergeant Hurley stood trial in Townsville's Supreme Court on charges of manslaughter and assault. On 20 June 2007, the jury found that Senior Sergeant Hurley was not guilty of the charges.[2]
- Senior Sergeant Hurley appealed to the District Court against the Acting State Coroner's findings that Hurley's actions had caused the death of Mulrunji, including that he had 'lost his temper and hit Mulrunji after falling to the floor inside the Palm Island Police Station, thereby causing the fatal injuries to Mulrunji', that 'Hurley had responded [to Mulrunji] with physical force', and that he had 'hit Mulrunji whilst he was on the floor a number of times'. The appeal was successful and on 18 December 2008 these findings of the Acting State Coroner were set aside (*Hurley v. Clements & ors* [2008] QDC 323).
- Mulrunji's family and the Palm Island Council lodged an appeal in the Supreme Court in January 2009 against the decision of the District Court, seeking to restore the findings of the Coroner. On 17 June 2009, the Court of Appeal set aside the whole of the finding relating to Hurley's actions causing the death of Mulrunji and ordered that the inquest be re-opened to re-examine this aspect (*Hurley v. Clements & ors* [2009] QCA 167). At the time of publication of this report, the re-opened inquest was not yet complete.

2. On 9 January 2007, a riot occurred in Aurukun after a local resident, Warren Bell, was arrested for allegedly assaulting a tavern manager with a stick. When first interviewed by the police, Bell stated that he had sustained injuries, including a lump on his forehead, during a fight with his brother on Saturday, 6 January 2006. Bell was taken by the police to a clinic for treatment for his injuries. There he met a member of the Aurukun community justice group who, on seeing Bell's injuries, suggested that Bell had been beaten by the police — a suggestion with which Bell agreed. The member of the Aurukun community justice group who suggested to Bell that he had been beaten by police officers conveyed Bell's allegation to other members of her group, who confronted police about the allegations of police assault.

   Back at the station, when questioned by police about the allegation of police assault, Bell alleged that he had been assaulted in his cell by a single, unknown police officer.

   Police showed the members of the community justice group the videotaped interview in which Bell blamed his injuries on the fight with his brother. Two of the community justice group members visited Bell in the watch-house.

   Later on 9 January 2007, Bell had a seizure in his cell and was flown to Cairns Base Hospital. His evacuation on a stretcher for medical treatment sparked a riot that night which lasted into the following morning. The riot was fuelled by community concerns that Bell had been assaulted while in police custody. Between 200 and 300 people attacked the police station, police vehicles, general store and tavern (which was looted). The disturbance forced police officers, their families and others to take refuge in the police station, which suffered significant damage, and led to one officer firing a warning rifle shot in order to repel the crowd. When the entire matter was later investigated, the allegations made by Bell were found to be untruthful and it was found there had been no assault on Bell by police (CMC 2007).

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2 It has been argued that the seemingly inconsistent decisions of the coroner and the Supreme Court can be explained by the different standards of proof applied in these different types of legal proceedings. Coronial proceedings apply a civil standard of proof — that is, they assess the evidence 'on the balance of probabilities' — whereas the Supreme Court trial applied the criminal standard of proof — that is, matters must be proved 'beyond a reasonable doubt' (see Corrin & Douglas 2008; Mackenzie, Stobbs & Thomas 2007; Ramsley & Marchetti 2008).

Relations between Indigenous people and the police have suffered deeply as a result of the events that triggered this inquiry, particularly the death of Mulrunji and its consequences (Chapter 7 provides further discussion of the impact of the death of Mulrunji and subsequent events). There is no doubt that the escalation of both of the above incidents into the extreme situation of riots is a result of a long history of events in this country that extends well beyond the immediate circumstances described above. Police services have had problematic encounters with Indigenous communities across Australian jurisdictions since their earliest encounters, and deep historical roots underlie the current mistrust and suspicion of police in Indigenous communities (see, for example, Cunneen 2001a; Finnane 1994; Mazerolle, Marchetti & Lindsay 2003; Johnston 1991). Repairing these relationships, and dealing with the historical baggage that attaches to policing in Indigenous communities, is an ongoing task that requires leadership on the part of both the Queensland Government, particularly the Queensland Police Service (QPS), and members of the communities themselves.

In addition to informing us about relations, the two incidents described above that precipitated this inquiry also highlight problems in relation to watch-house detention and resourcing of the criminal justice system in Queensland's Indigenous communities. We refer to these precipitating events where relevant throughout the report.

What were the inquiry's terms of reference?

By letters dated 1 February 2007 and 6 March 2007, the then Queensland Attorney-General and Minister for Justice, the Hon. Kerry Shine MP, wrote to the Chairperson of the CMC, Mr Robert Needham, asking that we examine policing in Queensland's Indigenous communities and make recommendations with respect to:

1. Possible changes to existing police policy and procedure that would result in improved relations between the QPS and Queensland's Indigenous communities.[3]
2. Current practices relating to detention in police custody in remote communities, including the monitoring of detainees in watch-houses and other police facilities in Queensland's Indigenous communities and the possible involvement of community justice groups or other civilians in the monitoring of detainees.
3. The optimal use of existing and future state resources available to deliver criminal justice services in Queensland's Indigenous communities.[4]

The then Attorney-General requested that our examination of these matters include consultation with relevant stakeholders, including the QPS, the Queensland Police Union of Employees, the Queensland Police Commissioned Officers Union, the mayors and councils of Aboriginal and Torres Strait Island communities, and community justice groups.

The CMC was also requested to have regard to:

- the report of the Royal Commission into Aboriginal Deaths in Custody
- the recommendations of the Deputy State Coroner in the inquest into the death in custody of Mulrunji at Palm Island and other previous coronial reports and recommendations
- the practical circumstances of policing Queensland's Indigenous communities.

3 The correspondence from the then Attorney-General referred to 'Aboriginal communities living on deed of grant in trust (DOGIT) areas, and in Torres Strait Island communities'. We list those communities considered in this inquiry below, under 'The scope of the inquiry'.

4 The inquiry originally was to examine a fourth term of reference — 'land use issues in terms of the provision of criminal justice services and other relevant services' in Queensland's Indigenous communities. However, the Attorney-General advised by letter dated 6 March 2007 that this fourth term of reference was no longer to be included.

The scope of the inquiry

Issues of policing, crime and justice in Indigenous communities cannot be neatly compartmentalised. They necessarily overlap with a wide range of issues in other areas, including education, employment, housing, health and governance. All of these issues, and many more, were raised during the inquiry and we have referred to them as we think appropriate in order to address our three terms of reference.

Since the start of the inquiry there has been a great deal of government activity, particularly in relation to the second and third terms of reference regarding watch-house safety and resourcing for policing and other criminal justice services in Queensland's Indigenous communities. Despite this activity, we have given careful consideration in the inquiry to these areas, and we make recommendations for further action to be taken.

Which communities are included?

For convenience, throughout this report we refer collectively to those communities considered by the inquiry as 'Queensland's Indigenous communities'. The communities within the inquiry's terms of reference include both Aboriginal and Torres Strait Island communities. They are:

- the 17 Aboriginal communities of Aurukun, Cherbourg, Doomadgee, Hope Vale, Injinoo, Kowanyama, Lockhart River, Mornington Island, New Mapoon, Old Mapoon, Napranum, Palm Island, Pormpuraaw, Umagico, Woorabinda, Wujal Wujal and Yarrabah
- the 20 Torres Strait Islander communities, comprising all those in the Torres Strait Islands and two on the mainland. The 18 communities in the Torres Strait Islands are Badu, Boigu, Dauan, Erub (Darnley Island), Hammond Island, Horn Island, Iama (Yam Island), Kubin and St Pauls (both on Moa Island), Mabuaig, Masig (Yorke Island), Mer (Murray Island), Muralug (Prince of Wales Island), Poruma (Coconut Island), Saibai, Thursday Island, Ugar (Stephen Island) and Warraber (Sue Island). Seisia and Bamaga are Torres Strait Islander communities located on the mainland in the Northern Peninsula Area of Cape York, near the Aboriginal communities of Injinoo, Umagico and New Mapoon.

We use the phrase 'Queensland's Indigenous communities' to refer only to those communities listed above, rather than to all of Queensland's Indigenous communities. The communities within the scope of our inquiry have historically had their own local councils and in the past have often been referred to as 'DOGIT communities' in reference to the system of land title, 'Deed of Grant in Trust', that applied to most of Queensland's former missions or reserve communities where Indigenous local councils were established.[5]

5 The term 'DOGIT community' is a somewhat erroneous description of the communities that were the subject of our inquiry. The 17 Aboriginal communities include 15 former 'DOGIT council' communities (see the *Community Services (Aborigines) Act 1984*). Many of the Torres Strait Islander communities also used to be 'DOGIT council' communities (*Community Services (Torres Strait) Act 1984*). In addition, however, three shire council communities existed: two Aboriginal ones — Aurukun and Mornington shire council communities (*Local Government (Aboriginal Lands) Act 1978*) — and the Torres Shire Council, which came into existence later, in 1991. Like the DOGIT councils, on inception these councils held various forms of land title defining the shire council area held in trust for its Indigenous constituents. However, recent local government reforms and amalgamations have introduced substantial changes for Indigenous councils. The Aboriginal councils are now referred to as 'Aboriginal shire' communities (see the *Local Government (Community Government Areas) Act 2004*). The amalgamations created a Torres Strait Islands Regional Council to amalgamate 15 previous island councils (the Torres Shire Council continues to exist) and a single Northern Peninsula Area Shire Council for those five communities in that area, including two Torres Strait Islander and three Aboriginal communities. Maps 1 and 2 in Chapter 2 show the location of the communities.

Regardless of our focus on these particular communities, many of the general issues highlighted in this report will be of some relevance to other predominantly Indigenous communities in Queensland such as at Coen, Normanton, Laura and Mossman Gorge. Some issues are relevant to Indigenous urban populations also. It is hoped that this report will provide a positive influence on future directions for all Indigenous Queenslanders, although the focus of the inquiry was not that broad.

In considering the issues relevant to Queensland's Indigenous communities in this inquiry, we are keenly aware that each community is different. Solutions to the complex law and justice problems facing these communities must be tailored to the needs of particular communities and this cannot be done if the discussion of issues has a homogenising effect.

How did we conduct the inquiry?

The inquiry has gathered information from five different sources:

1. Consultations with Queensland's Indigenous communities and other consultations
2. Written and oral submissions
3. A public forum held in Cairns
4. Queensland criminal justice system data, mostly provided by the QPS
5. A review of policy and research literature.

Consultations

Initial consultations

We conducted an extensive round of consultations from April to July 2007,[6] comprising about 150 meetings, the majority of which were with members of the communities we visited. Not only did our terms of reference require us to undertake extensive consultation — specifying, for example, that we must consult with police and the mayors and councils of Aboriginal and Torres Strait Island communities, and community justice groups — but we knew it was very important that we hear at first hand the views and impressions of people 'on the ground'.

- We visited all 17 of the Aboriginal shire communities, some of them more than once. We went to Aurukun, Cherbourg, Doomadgee, Hope Vale, Kowanyama, Lockhart River, Mapoon, Mornington Island, Napranum, Palm Island, Pormpuraaw, Woorabinda, Wujal Wujal, Yarrabah and the Northern Peninsula Area communities of Injinoo, Umagico and New Mapoon.
- We visited the Torres Strait Island communities of Thursday Island, Horn Island and Badu Island. We also visited the Torres Strait Islander communities in the Northern Peninsula Area (Bamaga and Seisia). At Thursday Island we attended meetings with the mayors from all the island communities, meetings with representatives of all their community justice groups, and the annual conference of the Torres Strait community police.

6 The Commission was originally requested to conclude this inquiry and report to the Queensland Government by 31 August 2007. However, the difficulties of conducting the consultations emphasised to the inquiry that, despite modern technology and the shrinking world, these communities remain isolated and remote. For example, at Doomadgee there was no accommodation available as the guest house was being rebuilt. We therefore planned to drive in and out of the community from Burketown but, on the dates for which the visits to Doomadgee were scheduled, flooding prevented access. Other factors affected the planned consultations, including the death of a young child in Aurukun, the conclusion of a major mining agreement on Western Cape York, aircraft breakdowns and the turmoil relating to the proposed forced amalgamations of councils throughout Queensland.

We met with councils (usually mayors and councillors), community justice groups and some of the men's groups and women's groups, and we also tried to hold a general community meeting wherever we went. All meetings were conducted in a fairly informal manner. The CMC's Aboriginal and Torres Strait Island Liaison Officers played a vital part in organising and conducting our visits. They went to great lengths to publicise our visits through brochures, public notices and phone calls. As well as trying to make sure as many people as possible knew we were coming, we tried to stay for several days in each place.

Attendance at meetings varied. In some cases it was strongly influenced by recent events (for example, at Kowanyama our meeting was very well attended because our visit followed a scandal caused when a carton of wine was delivered to the 'dry' community, addressed to a police officer). The councils were generally very busy at the time of our consultations as the process leading up to forced local government amalgamations was well under way. Where necessary we rescheduled meetings to give people a chance to contribute. Typically meetings were well attended.

In some places, there were language and other cultural barriers to communicating effectively. For example, in some places communicating with people whose first language is not English was difficult; some people used Torres Strait kriol in meetings. Again, our Aboriginal and Torres Strait Island liaison staff were very helpful in dealing with this.

The inquiry also met with police on the ground in the communities we visited and at Cooktown, Murgon and Weipa, where police are responsible for nearby Indigenous communities. We also met with senior police from QPS regions and districts responsible for policing Indigenous communities in Cairns, Rockhampton, Mt Isa and Townsville, and in Brisbane (including staff of the QPS Cultural Advisory Unit).

In several of the places we visited we also met with staff of the Department of Communities (DOC), staff of Aboriginal and Torres Strait Islander Legal Services (ATSILS) and a range of representatives of other government and non-government organisations, including those involved in the delivery of health and education services in Queensland's Indigenous communities. We met on several occasions with what was then the Queensland Government Coordination Office — Indigenous Service Delivery (also referred to as the Indigenous Government Coordination Office).[7] We also consulted with magistrates who had experience dealing with members of Queensland's Indigenous communities, and with the Cape York Institute for Policy and Leadership (CYIPL).

Final consultations

In 2009, while we were in the process of finalising this report, we conducted a further more limited round of consultations in which we were able to update some information and also test the feasibility of our proposed recommendations. These final consultations included consultations conducted on Mornington Island, a series of focus groups conducted in Brisbane with police experienced and involved in policing in Queensland's Indigenous communities, and consultations with senior representatives of the QPS, Magistrates Court, District Court and Aboriginal and Torres Strait Islander Services (ATSIS).

It is important, however, to acknowledge the limitations of the consultations we conducted. Unfortunately, some of the usual criticisms of 'fly-in, fly-out' consultations with Indigenous people do apply to us. We tried to consult broadly with a cross-section of community

7 From 2006, this office was the key unit of administration within the Queensland Government responsible for whole-of-government action to improve the delivery of services to 19 Indigenous communities. From 2007, it was located in the Department of Premier and Cabinet. However, since the post-election machinery of government changes implemented in March 2009, the responsibilities of this office for whole-of-government coordination have transferred to the Department of Communities, Aboriginal and Torres Strait Islander Services, and the Indigenous Government Coordination Office no longer exists as such (see Appendix 2).

members, including beyond the level of community leaders and Elders to those most often at the 'front line' of interaction with police, but we had limited success in doing so.[8]

What we heard was a selection of people's views at particular points in time; if we were to undertake the same exercise now, we might hear from different people with different views, or people's views might have changed. Gauging how representative the views we heard were is not an easy task. However, we often heard that community members had been expressing the same concerns to governments and other inquiries for many years. Particularly in consultations with groups representing a community, such as the council, we were at times advised about divergent views and matters of contention. We found that council members generally seemed well aware of the views within their communities, as what they told us was usually consistent with what we had ascertained from others during our consultation process.

Despite the limitations of the consultation process, overall we believe that the consultations involved a satisfactory cross-section of community members and other stakeholders. Although the views expressed to the inquiry were by no means uniform, clear and consistent themes did emerge across stakeholder groups, not just within them. For example, the police and Indigenous people often raised the same key issues, such as concern about the high levels of alcohol-related violence and the need for the communities themselves to be centrally engaged in developing and implementing solutions to their problems, and these key issues were raised again and again across different communities and from different cross-sections of the populations.

Written and oral submissions

The CMC released the inquiry issues paper in April 2007. We received 42 submissions from government departments, organisations and individuals and the themes evident in these submissions are reflected throughout the report. Unless it was otherwise requested, written submissions have been made public on the CMC website <www.cmc.qld.gov.au>. Appendix 1 provides a list of the published submissions.

The submissions reinforce the importance of some of the main themes that emerged from consultations, such as the importance of community engagement in dealing with problems. On the other hand, some issues emerged as a stronger focus in the submissions than was the case in the consultations, such as the role of police and the CMC in investigating complaints against police and deaths in custody.[9]

It was disappointing that the Queensland Police Union of Employees refused to engage with the inquiry from the outset, despite the direct relevance to their members of matters such as working conditions and remote area incentives for police working in Indigenous communities. We contacted the union both in writing and by telephone and invited them to meet or to provide a submission. They declined the invitation.

From 2002, Directors-General (or others at the most senior levels of the bureaucracy) of Queensland Government departments were appointed to be 'champions' of particular Indigenous communities. This is a key aspect of the Queensland Government's policy

8 In some places we tried to engage young men by organising a barbecue or making contact with sporting organisations, but we had little success. The inquiry repeatedly received feedback that this age group of young men, from the early teens into adulthood, was the most difficult for anyone from inside the communities, and outside them, to meaningfully engage. In fact this cohort was described as being totally 'disengaged' with everyone else.

9 Although we sought and received information about the investigation of deaths in custody in this inquiry, these matters are dealt with in detail in the forthcoming CMC report on the QPS investigation of the Mulrunji death.

approach to Indigenous communities (see Chapter 2 for further details). All Directors-General were therefore invited to provide information relevant to the inquiry, both about their area of departmental responsibility and as a champion. In response, only five Directors-General gave particular feedback about their championed community.

Public forum

A public forum was conducted by the inquiry in Cairns on 16 October 2007. The forum provided a good opportunity to discuss in greater detail particular issues raised in submissions and consultations, and to allow the inquiry to receive feedback on some initial ideas about areas for reform. A summary of the forum proceedings has been made available on the CMC website <www.cmc.qld.gov.au>.

Data

We drew on the following sources of criminal justice system data:

1. QPS crime report data that provide information about offences, offenders and victims in these communities
2. QPS watch-house custody register data that provide information about people held in police cells in a sample of four Western Cape York watch-houses
3. Courts data that provide information about matters dealt with by the Magistrates Court and the Justices of the Peace (JP) Magistrates Court in Queensland's Indigenous communities.

These data are referred to where relevant throughout the report.

Although the use of police crime report data and courts data is quite commonplace, we found it was necessary to consider additional data to assess issues related to police detention. Initially, we requested data from the QPS about the people held in watch-houses in Indigenous communities. In response, the QPS provided summary information from the computer-based Custody Index.[10] However, we found that it was not possible to accurately identify watch-house admissions and periods of watch-house detention from that information. We then requested data collected by the QPS for the Australian Institute of Criminology (AIC) National Police Custody Survey, but were advised by the QPS that the data were not reliable for our purposes.[11]

As an alternative, we decided to examine whether QPS 'watch-house custody registers' might provide us with relevant and possibly reliable data. Police are required to enter information in the register for every person admitted to a watch-house.[12] When we requested access to a sample of the registers, we were advised that the registers were 'accountable documents' and

10 The Custody Index is designed to allow police to record incidents of police custody, locate a person who is in police custody and obtain or enter information about the person. 'Police custody' includes all forms of custody — in watch-house cells, at a police station, in a police vehicle or at any other location such as a residence. For some Custody Index entries in the summary provided to us, we could not determine whether the suspect was admitted to the watch-house. QPS officers tried to assist us in identifying the watch-house admissions but ultimately advised that the Index summary could not provide accurate data on admissions. Also, the Custody Index could not provide consistently accurate information about the period of detention of prisoners in police cells. The limitations of the Custody Index for our purposes were confirmed by the QPS (Police Commissioner's letter dated 21 February 2008 to CMC Chairperson).

11 Police Commissioner's letter of 21 February 2008 to CMC Chairperson.

12 Watch-house custody registers are large printed record books in which a range of information may be recorded, including detainee details (such as name, date of birth and Indigenous status), Custody Index number, charge and bail details, time and date admitted and released/transferred, and health and medical assessment results. Each double page of a register can record the detention of one individual prisoner. Registers are identical throughout the QPS and hold 100 records (admissions) each. Unlike the Custody Index, the register is not a computer-based information system.

were not normally removed from police stations. After some negotiation, however, the QPS sent us the registers for the years 2006 and 2007 for four watch-houses on Western Cape York — Weipa, Aurukun, Pormpuraaw and Kowanyama.[13] Extracting information from the registers was a labour-intensive and time-consuming task that is rarely undertaken, even by the QPS.[14]

Review of policy and research literature

The degree of social disorder in many Queensland Indigenous communities has increasingly been brought to the attention of the wider public by Indigenous people themselves, as well as by many reports and commentators and through the introduction of policies to deal with the problems. There is a vast quantity of policy and research literature relevant to our inquiry. This report follows other key reports in the area, including:

- the reports of the Royal Commission into Aboriginal Deaths in Custody (the Royal Commission) (Johnston 1991)
- the *Aboriginal and Torres Strait Islander Women's Task Force on Violence report* (Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999)
- the *Cape York Justice Study report* (Fitzgerald 2001).

Even during the period of our inquiry, a great number of further reports and strategies relevant to policing, crime and justice issues have been published. Some examples are:

- 'An independent assessment of policing in remote Indigenous communities for the Government of Australia' (Valentin 2007)
- *Ampe akelyernemane meke mekarle: 'Little children are sacred': report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse* (Wild & Anderson 2007)
- *From hand out to hand up* (CYIPL 2007)
- *Review of Cape York sentences* (Davis & Eberhardt 2008)
- *Improving Cape York justice services* (O'Connor 2008).

In 2008, the Cape York Welfare Reform Trial and the Family Responsibilities Commission (FRC) commenced in four communities and further alcohol reforms have been introduced for Indigenous communities in Queensland (except in the Torres Strait Islands). In addition, state governments and the Australian Government have developed the *Closing the Gap* initiative since December 2007, which seeks to provide a heavy focus on early intervention, particularly in the areas of health and education, in order to improve outcomes for Indigenous Australians.

A brief description of each of these reports and initiatives, and many other relevant reports and initiatives over the last 20 years, is provided in Appendix 2. We also refer throughout this report to aspects of this vast literature where relevant.

13 The watch-house registers from the Western Cape police divisions were received by the CMC at the end of April 2008. The watch-house locations were not selected randomly: instead, we selected locations that included two comparatively large Indigenous communities (Aurukun and Kowanyama) and a smaller community (Pormpuraaw). We also requested the registers for the Weipa police division as it services the Weipa township and two Indigenous communities: Napranum and Old Mapoon. The Magistrates Court, Childrens Court and District Court sit at Aurukun, Kowanyama, Pormpuraaw and Weipa on circuit from Cairns.

14 The QPS has advised that phase 2.2 of its new information system, QPRIME (Queensland Police Records and Information Management Exchange), which commenced in October 2008, includes a watch-house and custody management procedures function. Although it may take some time for problems arising with the system to be worked through, in time it should provide easier access to the type of information needed for consideration of watch-house detention issues.

Summary and conclusions: close scrutiny of past approaches is warranted

In conducting our inquiry, which was triggered by the events following the death of Mulrunji in the watch-house on Palm Island in 2004 and a riot against police occurring in Aurukun in 2007, we have sought to give fairly comprehensive consideration to the difficult issues relating to policing, crime and the criminal justice system in Queensland's Indigenous communities. In particular, the views provided through our community consultations and consultations with police have been very important to our inquiry — and we have tried to listen carefully to these views. We have also made efforts to inform our arguments and recommendations through evidence in so far as it is possible, including through analysis of relevant data relating to Queensland's Indigenous communities and consideration of the available research.

Although the level of research and policy activity in this area is high, policing issues and the crime and disorder problems being faced by Indigenous communities do not appear to be abating. This means that close attention is warranted to research evidence and the policy approaches that have been taken previously, so that we can improve on them. We begin this task by providing in Chapter 2 a broad overview of the last 20 years of Indigenous policy and initiatives relevant to our inquiry.

2

INDIGENOUS POLICY AND INITIATIVES: 20 YEARS IN REVIEW

This inquiry is another in a long line of reviews and reports looking at issues affecting Indigenous communities from slightly different perspectives. There have quite literally been thousands of recommendations already made to governments regarding how to deal with the problems faced by Indigenous people. Many of the reviews and reports are critical of the failure to implement those that have gone before.

This chapter sets the scene for our discussions throughout the report by:

- **outlining some of the key reports and responses relevant to policing, crime and justice issues in the last 20 years, most importantly the *National report: Royal Commission into Aboriginal deaths in custody* (Johnston 1991)**
- **identifying a number of lessons that can be learnt from the long line of reports and initiatives in Indigenous affairs that preceded this inquiry; we identify ways in which approaches have improved over time and a number of ongoing challenges.**

The influence of key reports

Appendix 2 gives a brief summary of many of the reports, and the policy and service delivery responses, over the last 20 years that are most relevant to the issues in this inquiry. In this chapter we provide a detailed discussion of the two reports that have had the greatest lasting influence in Queensland — the *National report: Royal Commission into Aboriginal Deaths in Custody* (Johnston 1991) and the *Cape York Justice Study report* (Fitzgerald 2001). We pay particular attention to the Royal Commission and its continuing legacy, which remains the cornerstone of much of the criminal justice system policy for Indigenous Queenslanders.

The Royal Commission into Aboriginal Deaths in Custody (1991)

The 1991 Royal Commission into Aboriginal Deaths in Custody (RCIADIC) was a landmark inquiry for Indigenous affairs and policing in this country. As noted by the Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma (2006), the Royal Commission report smashed the 'great Australian silence' on the history of treatment of Indigenous people in this country and its current ramifications. The Royal Commission continues to remain a very powerful influence on issues of criminal justice and policing for Indigenous people.

The fundamental message of the Royal Commission was that a reduction in the unacceptable rate at which Indigenous people were dying in custody required a reduction in the overrepresentation of Indigenous people in custody. The Commission's proposed solutions included recommendations focusing on the criminal justice system itself, such as:

- increasing the diversion of Indigenous people from police custody and from the justice system
- addressing health and safety issues for Indigenous people in custody and setting clear standards of care for police and correctional staff.

Many of the recommendations of the Royal Commission directly relate to reforming policing practices (we refer to further details of these throughout this report).

The Royal Commission also acknowledged that the more fundamental causes of the overrepresentation of Aboriginal people in custody were not found in the criminal justice system but rather in the disadvantaged and unequal position of Aboriginal people. It made recommendations to deal with underlying factors contributing to Indigenous disadvantage and promoted a broad agenda; it introduced, for example, the concept of 'reconciliation' into our national debates.

The Royal Commission recommendations sought to facilitate the self-determination of Aboriginal society and to this end made recommendations for the development of community-based justice initiatives and community input into the criminal justice process. For example, it recommended that every Australian jurisdiction should establish:

- an Aboriginal Justice Advisory Committee to provide advice to government on criminal justice issues (recommendation 2, Johnston 1991, vol. 1, p. 30)
- local community justice groups or panels to improve policing and lower crime rates (Johnston 1991, vol. 4, pp. 102–9).

The Royal Commission highlighted the direct contribution of alcohol to Aboriginal deaths in custody, in terms of intoxication being frequently involved in much offending and also in terms of it being a factor that could lead to death in custody (Johnston 1991, vol. 4, pp. 273–4). The Royal Commission's recommendations to deal with alcohol abuse focused on decriminalisation of public drunkenness and diversion of drunks, so that people did not end up in custody for drunkenness. It also recommended that restricting the availability of alcohol in Aboriginal communities should be considered and that treatment programs were needed (Johnston 1991, vol. 3, pp. 6–29, 44–7; vol. 4, pp. 275–90; see also Langton 1990).

The Royal Commission's recommendations, particularly those about reform of the criminal justice system, triggered substantial reform.[15] For example, steps have been taken to increase the diversion of people from the criminal justice system, cell design and watch-house safety have been greatly improved, and there is now an improved coronial system to ensure that all deaths in custody are closely and independently examined (see Part 3 of this report, 'Detention in police custody', for further details of the impact of the Royal Commission in this area).

The Cape York Justice Study (2001)

The 2001 *Cape York Justice Study report* by Tony Fitzgerald focuses heavily on the need to address alcohol consumption as an underlying factor in crime, especially violent crime. It identifies three priority areas for addressing crime and justice problems:

1. Supporting effective community-based crime prevention and early intervention strategies to prevent Indigenous people from coming into contact with the justice system
2. Supporting the diversion of offenders to these community-based alternatives wherever possible
3. Improving the mainstream criminal justice system by making it more responsive, accessible, efficient and humane (Fitzgerald 2001, p. 113).

15 The Royal Commission acknowledged itself that the criminal justice system reforms it proposed were 'the least difficult' of its recommendations (in contrast to those recommendations aimed at addressing the underlying causes of overrepresentation in the criminal justice system, for example). It has also been suggested that, because of the initial structure and the development of the Commission's work, the underlying causes of overrepresentation emerged only as a secondary focus of the Royal Commission (see, for example, Marchetti 2005).

Although the Cape York Justice Study echoes some of the Royal Commission's recommendations (such as its emphasis on increasing diversion of offenders), together with the *Aboriginal and Torres Strait Islander Women's Task Force on Violence* report (Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999) it brought into sharper relief:

- the needs of victims and the need for safe Indigenous communities; for example, the *Cape York Justice Study report* used the language of 'zero tolerance' in talking about how the police and community should respond to family violence and the Task Force report stated that its primary message from consultations with Indigenous women was 'all we want is for the violence to stop' (Fitzgerald 2001, pp. 142–52; Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999, p. ix)
- the desperate need to deal with the role of alcohol in crime in Indigenous communities in Queensland, including the need for policing to actively support strategies and laws to reduce the supply of alcohol.

The most substantial reform introduced by the Queensland Government's response to the *Cape York Justice Study report* was the implementation of Alcohol Management Plans (AMPs) to restrict the availability of alcohol in 19 Indigenous communities[16] through 'restricted area' regulations under the *Liquor Act 1992* or 'dry place' declarations. AMPs have been progressively implemented in these communities since December 2002. The Queensland Government has sustained its focus on restricting the supply of alcohol in these communities and from December 2008 introduced further alcohol reforms, including laws to make communities 'as dry as possible'. These further reforms also provide funding for support services to communities to reduce demand for alcohol, including by providing drug and alcohol treatment services (Queensland Government 2008a). We will discuss the implementation and impact of the AMPs in this report.

Time to go beyond the legacy of the Royal Commission?

Over 18 years after the Royal Commission, however, the evidence shows that its most fundamental aim — the reduction of the overrepresentation of Indigenous people in custody — is yet to be achieved:

- Australian Bureau of Statistics (ABS) National Prisoner Sentence data show that the imprisonment rate of Indigenous people in Queensland has increased rather than decreased, from 1456.9 per 100 000 adult Indigenous population in 1997 to 1759.4 per 100 000 adult Indigenous population in 2008[17] (ABS 2008a; see also Fitzgerald 2009). That is, the representation of Indigenous people in Queensland prisons has worsened over time.
- As at 30 June 2008, in Queensland, Indigenous people were over 10 times more likely than non-Indigenous people to be in adult prisons (ABS 2008a).[18] Although Indigenous people constitute just over 3 per cent of Queensland's population, they made up 27 per cent of Queensland's adult prison population as at 30 June 2008 (ABS 2008a).
- Indigenous juveniles remain grossly overrepresented in juvenile detention facilities in Queensland. At 30 June 2007, there were 313.5 Indigenous persons and 12.5 non-Indigenous persons per 100 000 total population aged 10–17 years in detention centres in Queensland; this is equivalent to a rate ratio of 25, meaning that Indigenous young people were 25 times more likely to be detained than non-Indigenous juveniles as at 30 June 2007 in Queensland (Taylor 2009).

16 That is, all 17 Aboriginal communities listed in Chapter 2 of the report, and the two Torres Strait Islander communities situated in the Northern Peninsula Area (Seisia and Bamaga). These communities are sometimes referred to as the 'MCMC communities', referring to the title of the Queensland Government's response to the Cape York Justice Study, the *Meeting Challenges, Making Choices* strategy (Queensland Government 2002). No alcohol restrictions apply in the Torres Strait Islands or in other Indigenous communities such as Coen and Mossman Gorge.

17 The age-standardised imprisonment rates have also worsened over this period (see ABS 2008a).

18 This is true for calculations made using the age-standardised rate and the crude rate (see ABS 2008a).

- Indigenous people continue to be overrepresented in police custody; there has not been a consistent downward trend in the period of over 18 years from the time of the Royal Commission (see Part 3 for a detailed description of these data).

Despite the fact that, so many years after the Royal Commission, the evidence shows that the overrepresentation of Indigenous people in custody has not improved or has worsened, criminal justice system policy and strategies aiming to reduce the overrepresentation of Indigenous people continue to heavily focus on its legacy. The question arises: should we continue this heavy reliance on the Royal Commission's legacy of focusing on criminal justice system reforms to reduce Indigenous overrepresentation? Or is it time to add a further layer of knowledge to our approach if we hope to successfully tackle Indigenous overrepresentation?

Flawed implementation?

It is a common view that the Royal Commission failed to achieve its most fundamental goal of reducing the rate of Indigenous overrepresentation in custody because of the poor performance of governments in properly implementing its recommendations (see Dick 2002, p. 6; see also Aboriginal and Torres Strait Islander Deaths in Custody Overview Committee 1996; Edney 2004; HREOC 2001; Lavery 1994; Watson 2007, p. 10).

In February 2007, the then Premier, the Hon. Peter Beattie MP, reported that the Queensland Government believed it had 'largely implemented' the Royal Commission recommendations and tabled a single-page report in parliament to this effect (*Townsville Bulletin* 2007, p. 7; Queensland Government 2007a). The Premier stated in parliament:

> This government takes its responsibility to implement the Royal Commission into Aboriginal Deaths in Custody recommendations very seriously … In total we have accepted 287 of the 290 recommendations made by the royal commission, applicable to Queensland, including all those relating to police watch-houses … 31 recommendations … require further action as they require ongoing implementation. In other words, we believe we have implemented the recommendations. There are 31 that are ongoing and do not ever end. (QLA (Beattie) 2007a, p. 14)

Reporting on the implementation of the Royal Commission recommendations is enough to fill many library shelves. Many reports were provided by the Commonwealth and each of the state and territory jurisdictions, as well as by individual agencies within jurisdictions. Governments responded initially to the recommendations, and then continued to report annually for over a decade on the progress of their implementation. Indigenous organisations, and non-government organisations such as Amnesty International, also provided independent reports that attempted to assess the progress of implementation (see Garfoot 2002).

In Queensland, the government first published various reports on implementation of the recommendations (Queensland Government 1992, 1994, 1997a, 1997b, 1998). After this time the key reports are those published by the state government and by the Queensland Aboriginal and Islander Legal Services Secretariat (QUAILSS) Deaths in Custody Monitoring Unit (DICMU), which was funded by the former Aboriginal and Torres Strait Islander Commission (ATSIC) in order to provide an 'independent assessment' of progress. In reality, DICMU merely collated the reports provided by various government departments and agencies on the implementation of recommendations, and provided its brief response that more ongoing work was required or that the recommendation was considered to be implemented. Once DICMU accepted that a recommendation had been implemented, the Queensland Government no longer reported to DICMU, or elsewhere, against it. DICMU reported on the implementation of the RCIADIC recommendations in this way in its *Which Way* reports for 1995–96, 1997–2000, 2001, 2002 and 2003. DICMU has been disbanded and after 2003 there was no formal reporting on the RCIADIC recommendations in Queensland until the controversy sparked by the death of Mulrunji.

The deficiencies in implementing Royal Commission recommendations have been noted by many (see, for example, Aboriginal and Torres Strait Islander Deaths in Custody Overview Committee 1996; Edney 2004; HREOC 2001; Lavery 1994; Watson 2007). That there have been real deficiencies in implementing recommendations is evidenced by the fact that the issues raised by the Royal Commission continue to provide the basis for recommendations made in coronial inquests into deaths in custody.[19] For example, the coroner in the inquest into the death of Mulrunji acknowledged that the recommendations of the Royal Commission underpin many of her comments and that:

> It is reprehensible that the detailed recommendations of the Royal Commission into Aboriginal Deaths in Custody should have to be referred to, so many years after the Royal Commission. The evidence is clear however that these recommendations are still apt and still ignored. (Clements 2006, p. 28)

In 2001, then Aboriginal and Torres Strait Islander Commissioner Dr William Jonas AM described the process by which the Royal Commission recommendations were implemented across the country as 'superficially appearing to be extensive' but being 'spectacularly unsuccessful' (HREOC 2001). He identified the following fundamental flaws in the process:

- it did not result in the accurate assessment of progress because of lack of independence and evaluation in government annual reports
- governments generally took a 'public relations approach' to the reporting process, repackaging existing programs as an implementation response at the end of the year
- the implementation process had been piecemeal and ad hoc; there had not been whole-of-government responses to all the recommendations, integrating programs across departments and between levels of government to ensure coordinated outcomes
- there was no assessment of progress against pre-agreed, negotiated outcomes that measure real achievements (HREOC 2001).

It was concluded that the recommendations must be adequately implemented if the situation is to improve and that efforts need to be redoubled to turn this situation around (Dick 2002; see HREOC 2001).

Many of the submissions made to our inquiry also express a desire to see the recommendations of the Royal Commission properly implemented. For example, some submissions argue that police need to divert more offenders away from the criminal justice system and to use arrest only as a last resort. A number of submissions even call for the CMC to conduct a complete review of the implementation of recommendations (JCU Law School submission, pp. 5, 15, 22–4 & 28; LAQ, pp. 3 & 5; ATSILS (Qld Sth), pp. 9 &12; individual submission, Villaflor, p. 3; individual submission, name withheld, p. 1; individual submission, Ashby, p. 2).

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19 In Queensland, the deficiencies in the reporting and implementation processes also become clear if we trace the history of how particular recommendations came to be regarded as 'implemented'. For example, recommendation 86 states: 'The use of offensive language in circumstances of interventions initiated by police should not normally be occasion for arrest or charge; and Police Services should examine and monitor the use of offensive language charges.' This recommendation came to be regarded as 'implemented' after the 4th edition of the DICMU *Which Way* report, for 2001. The QPS provided no details in reporting other than to claim that this recommendation had been 'implemented' and the DICMU responded that it accepted that the QPS had implemented the recommendation. The CMC's (2008) public nuisance report, however, shows that as at 2008 this recommendation could not be regarded as implemented.

A further example is provided by recommendation 214 relating to the implementation of community policing and increased Indigenous involvement in justice processes. This came to be considered implemented after the 3rd edition of the *Which Way* report, for 1997–2000, when the QPS reported that 13 Community Consultative Committees involving Indigenous people had been established. 'Community policing', however, is a complex notion used to describe a particular style of police engagement with the community. Community policing cannot be implemented through the creation of structures aimed at facilitating community involvement in crime and policing issues alone (see, for example, Segrave & Ratcliffe 2004).

Too much focus on the criminal justice system and too little on tackling offending?

However, it has also been suggested that flawed implementation alone does not explain why the Royal Commission has not brought about the results it intended. Noel Pearson (2006a, p. 1) suggests:

> There was a basic criminological and intellectual failure on the part of the commission. As long as Indigenous leaders and governments keep treating the commission's report as holy writ, we will continue to approach these issues in the wrong way, and overrepresentation will not abate.

Pearson's (2007; see also 2001) view is that the Royal Commission focused too much on the operations and processes of the criminal justice system itself as a factor in the overrepresentation of Aboriginal people. He states that the recommendations have led to a criminal justice system that is 'fairer and safer', but have led also to an unwillingness to emphasise the immediate behaviours of Indigenous people that give rise to offences, such as substance abuse, abandonment of responsibility for one's family, disrespect for neighbours and disregard for social standards that must exist if a community is to be functional.

Government policy and programs in this area certainly reflect an apparently great faith in the ability of criminal justice system initiatives — for which there is little or no evidence suggesting they will have a substantial crime prevention effect — to overcome Indigenous overrepresentation in the criminal justice system. We provide three examples of government policy and programs aiming to reduce Indigenous overrepresentation that focus on initiatives more likely to achieve a fairer and safer criminal justice system, rather than initiatives likely to be effective in reducing crime:

1. The *Queensland Aboriginal and Torres Strait Islander Justice Agreement*, signed by the Aboriginal and Torres Strait Islander Advisory Board and the Queensland Government in 2000. The stated aim of this agreement is to reduce the rate of overrepresentation of Indigenous people in custody in Queensland by 50 per cent by 2011. The agreement aims to achieve this target through a focus on the criminal justice system, including providing alternatives to court, effective diversion, effective legal assistance, Indigenous community input into sentencing, and the employment of more Indigenous Queenslanders in justice-related government agencies (Queensland Government 2001, p. 11).

   The agreement does not identify high rates of crime as one of the main reasons for Indigenous overrepresentation in the criminal justice system. Only one supporting outcome, 'effective early intervention with those at risk of becoming involved in the criminal justice system', is focused on crime prevention rather than on improving the operation of the criminal justice system itself.[20]

2. The *Overcoming Indigenous disadvantage* reports (Steering Committee for the Review of Government Service Provision (SCRGSP) 2003, 2005, 2007, 2009) appear to have frequently placed a great deal of emphasis — in terms of 'what works' to reduce Indigenous overrepresentation in the criminal justice system — on modified court processes such as Queensland's Murri Court, established by the Magistrates Court from 2002.

   The Murri Court allows for Indigenous people to have input into the appropriate sentencing of Indigenous offenders. The objectives of the Queensland Murri Court are said to include the reduction of Indigenous overrepresentation in prison and re-offending (see Parker & Pathe 2006). Although the Murri Court may fulfil other important objectives, evidence suggests it is unlikely that alterations made to the court process to provide Indigenous people with a greater say in sentencing of other Indigenous people — without also

20 No improvement in Indigenous overrepresentation in custody has been seen in Queensland during the existence of the agreement. In the period from 30 June 2000 to 30 June 2008 there was no improvement in the number, rate or proportion of Indigenous prisoners in Queensland, or in the ratio of Indigenous to non-Indigenous imprisonment (see ABS 2008a; these ABS data are also presented in the latest *Overcoming Indigenous disadvantage* report (SCRGSP 2009)). Although there was some fluctuation, the rate ratio of Indigenous overrepresentation in juvenile detention also remained high over the period (see Taylor 2009).

substantially altering the treatment, support or other interventions on offer to the court in sentencing — will have any substantial effect in preventing crime (see Fitzgerald 2008).

3. Information provided in the Queensland Government's *Criminal Justice System Bulletin* (2007b, p. 24) outlines 'key initiatives that aim to reduce Aboriginal and Torres Strait Islander overrepresentation'. It provides details of the QPS and other justice system initiatives, most of which may improve the operation of the criminal justice system itself but are likely to have only a minimal effect, if any, in preventing crime. For example, the QPS's Part-Time Cell Visitors scheme, through which community members may visit watch-houses to provide comfort and support to Indigenous detainees, is said to be aimed at reducing Indigenous overrepresentation. Of the initiatives listed, only the QPS's Indigenous Licensing program could be described as having a primary focus on crime prevention.

The evidence presented throughout this report suggests that, in Queensland Indigenous communities at least, if criminal justice policy continues to rely so heavily on the legacy of the Royal Commission without adding a further layer of knowledge, it will guarantee that the past failures to improve outcomes will continue. Part of the legacy of the Royal Commission we have inherited is that many government initiatives that have the stated aim of tackling Indigenous overrepresentation are destined from the outset to have little or no impact, particularly in Queensland's Indigenous communities — they are premised too heavily on the notion that Indigenous overrepresentation can be substantially reduced by changing the operation of the criminal justice system itself, rather than by developing strategies based on evidence for effective crime prevention.

What do we mean by 'crime prevention'?

We use the term 'crime prevention' in this report to refer to the broad range of things that may prevent or reduce crime. Crime prevention may include steps taken to stop crime before it occurs, and also to reduce crime committed by offenders.

Part of the difficulty with the concept of crime prevention is that it is quite amorphous; almost anything that has a positive effect on an individual could be labelled 'crime prevention'. For example, we were told that, in Hope Vale, crime prevention funds have been allocated to support the Hope Vale Indigenous Knowledge and Technology Centre, which provides a library service, a training venue and public internet access. Although important, such an initiative is not likely to be closely related to crime prevention.

For this reason we have tried to pay close attention to the evidence about 'what works' to prevent or reduce crime, as this must form the starting point from which to approach crime prevention.

Broad lessons from other reports and policy developments

In recent years, the approach to Indigenous affairs across the country has been undergoing a rapid-fire series of major policy reforms on many fronts. Issues of crime and justice have often been central. For example:

- Since 1999, when Noel Pearson first outlined his arguments about the devastating impact of passive welfare on Indigenous families and communities in *Our right to take responsibility*, his ideas and those of the Cape York Institute for Policy and Leadership have been a growing influence on both the state and federal governments' approach to addressing the issues of disadvantage arising in Indigenous communities. In July 2008, we saw the implementation of the Institute's radical Welfare Reform Trial as proposed in *From hand out to hand up* (CYIPL 2007). The trial seeks to address welfare dependency and the breakdown of social norms, which are regarded by Pearson and the CYIPL as causal factors in the dysfunction of communities in Cape York (see Chapter 6 for further details of the trial and its associated Family Responsibilities Commission).

- In June 2007, the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse released its report *Ampe akelyernemane meke mekarle: 'Little children are sacred'* (Wild & Anderson 2007). The Australian Government immediately declared a 'national emergency' in Indigenous communities in the NT and began its 'intervention' into the management of NT Aboriginal communities. The intervention includes the introduction of:
  - an increased police presence in communities
  - alcohol restrictions in remote communities
  - welfare policy reforms that seek to address the connection between social dysfunction, child neglect and substance abuse on one hand, and passive welfare on the other; welfare payments are made conditional on responsible behaviour such as ensuring that children are going to school, and a portion of all welfare payments is quarantined for the purchase of household necessities (see Altman & Johns 2008).

In addition, administrative changes in Indigenous affairs in recent years reflect a shift toward 'mainstreaming' at the state and federal level. For example:

- In 2005, the federally funded Aboriginal and Torres Strait Islander Commission was abolished[21] and replaced with the Office of Indigenous Policy Coordination within the Department of Immigration and Multicultural Affairs.
- At the state level in July 2006, the responsibilities and functions of the Department of Aboriginal and Torres Strait Islander Policy (DATSIP) were transferred to the Department of Communities and its Office of Aboriginal and Torres Strait Islander Partnerships. The Government Coordination Office — Indigenous Service Delivery was also created within the Department of Communities; it was later transferred to the Department of the Premier and Cabinet and then, in 2009, it was transferred back to the Department of Communities and was to become Aboriginal and Torres Strait Islander Services (ATSIS).

Fundamentally, each of these reforms reflects the challenges faced by governments in developing a holistic response across agencies and at all levels of government, and in conjunction with the communities. It also reflects the lack of improved outcomes for Indigenous people generally over time. Appendix 2 provides brief details of various reports and policy initiatives over the years; it makes for depressing reading. Despite what appears to be a frantic level of policy activity there is little obvious sense of progress over the past two decades. However, it is possible to look across that vast body of information outlined in Appendix 2 and to highlight:

- areas in which the approach to Indigenous issues has substantially improved
- continuing stumbling blocks on the pathway to achieving better outcomes.

The remainder of this chapter identifies these improvements and continuing stumbling blocks.

Partnerships, whole-of-government coordination and improved coordination

There has been a burgeoning recognition that success depends on effective 'partnerships' (especially with communities) and 'whole-of-government' coordination (that is, coordination across government agencies and across state, federal and local levels of government) (see, for example, Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999; Fitzgerald 2001). Success in Indigenous affairs, probably more than in any other area of government policy and service delivery, is highly dependent on the ability to achieve joint action with community and across governments.

21 ATSIC was an elected Indigenous representative body established in 1990 to ensure Indigenous participation in policy development and implementation, promote self-management, and help to coordinate policies at the federal, state and local level.

The need to work in partnership and with a whole-of-government approach is now universally acknowledged by governments in relation to Indigenous affairs. Various efforts have been made to implement partnerships and whole-of-government approaches. For example:

- In 2000, the Queensland Government response to the *Aboriginal and Torres Strait Islander Women's Task Force on Violence report* introduced:
  - the 'Ten Year Partnership' with eight agreed priority areas, including 'justice' and 'family violence'
  - a trial of a 'whole-of-government, whole-of-community' approach called the 'Cape York Partnership', to be coordinated centrally by the Department of the Premier and Cabinet (Queensland Government 2000).
- In 2002, the Queensland Government's response to the Cape York Justice Study, the *Meeting Challenges, Making Choices* strategy, announced the establishment of the Cape York Coordination Unit in Cairns as part of the Department of the Premier and Cabinet, to provide whole-of-government response to the issues faced in Cape York (and to be linked to Cape York Partnerships, with Noel Pearson as Director, whose role it is to promote partnerships with communities, government and business) (Queensland Government 2002).
- In 2002, the Council of Australian Governments (COAG) announced the 'COAG trials' to provide whole-of-government and partnership approaches to one trial site in each jurisdiction; in Queensland, the trial site was Cape York (COAG 2002).
- In 2005, the Queensland Government launched *Partnerships Queensland: future directions framework for Aboriginal and Torres Strait Islander policy in Queensland 2005–2010* (PQ). The policy is intended to provide a whole-of-government framework to guide policy and services for Indigenous Queenslanders. The Partnerships Queensland framework identifies as a key goal 'safe places' to be achieved through 'collaboration and partnerships at the local, regional and state levels'.
- In 2007, COAG agreed to a 'partnership between all levels of government to work with Indigenous communities' to achieve targets to 'Close the Gap' between the outcomes experienced by Indigenous and non-Indigenous people (COAG 2007). The agreement is described as 'historic' (see Australian Government 2009). In Queensland the Indigenous communities that it is said will be the 'initial' focus of Australian and Queensland Government resources are Mornington Island, Doomadgee, Hope Vale and Aurukun (together with the non-DOGIT communities of Mossman Gorge and Coen, which are part of the Cape York Welfare Reform Trial).

Of course, making commitments to partnerships and coordinated whole-of-government approaches, or creating new policies or structures to facilitate them, may be a step in the right direction, but it is not quite the same thing as achieving them.

The high rate of change — including, in relation to administrative structures, the repeated announcements of new policy frameworks and trial processes — indicates that, in practice, the difficulties of achieving effective partnerships and whole-of-government coordination cannot be underestimated. The rate at which new policy initiatives or frameworks have been announced, and the fact that pre-existing ones are rarely explicitly abandoned, has left a vast array of overlapping policies intended to direct collaborative action; this is confusing and difficult for those in government to keep track of or understand, let alone for the people living in Indigenous communities.

Despite clear government commitment and good intentions, meaningful or real 'partnerships' with Indigenous people, and well-coordinated whole-of-government action, remain rarities (see Urbis Keys Young 2006; Australian National Audit Office 2007).

Engaging Indigenous communities

Linked to the notion of partnering with Indigenous communities is the notion of achieving effective community engagement and participation in policy processes and implementation. This area remains problematic despite the oft-repeated recognition of the need for effective partnerships with Indigenous people that we have described.

There is widespread recognition that Indigenous people need to be central players in their own development (see, for example, Banks 2009; Calma 2009; Henry 2007; Pearson 1999, 2008, 2009; SCRGSP 2009, p. 1.2). For example, the most recent two-yearly national progress report, the *Overcoming Indigenous disadvantage: key indicators 2009* report, which describes little substantial improvement and further deterioration in many areas, pointed out that 'the efforts of governments acting alone will not be enough to overcome Indigenous disadvantage' and stated that concerted action from Indigenous people themselves must be central if fundamental changes are to be achieved in the long term (SCRGSP 2009, p. 1.2).

Governments continue to struggle to achieve the right level and kind of 'engagement' with Indigenous communities so that Indigenous people themselves play the central role in efforts to bring about positive change for their communities. Our inquiry noticed that those working across government in Indigenous affairs often expressed frustration about the lack of community engagement or lack of community will to achieve change. Frustration was also expressed at the limited capacity of some local councils and other Indigenous organisations.

On the other hand:

- Communities often express frustration at the 'top down' approach of government and at the 'revolving door' of government programs, initiatives and workers' 'fly-in, fly-out' approach to their communities. (Such workers are often described as 'blow ins'.)
- Governments often rely heavily on community consultation processes as evidence of community engagement. Such consultation processes are often criticised as perfunctory and insufficient (Calma 2009; Chaney, cited in ABC news 2009a), but they have also been criticised for being 'endless' and for stifling decisive action (Abbott, cited in Hawke 2009).
- Other representative structures by which governments have sought to engage with Indigenous people and communities at the national, state and local level are frequently criticised for becoming only 'talkfests' or for not being accountable for improving outcomes. Such structures are often not sustained (see Appendix 2 for a brief outline of the creation and disbanding of such structures).

Monitoring and performance measurements

One area in which government coordination and effort have led to clear improvements is that of monitoring and performance measurement frameworks in the area of Indigenous affairs.[22] The frameworks now in place provide a greater level of transparency for the community and a stronger platform for the development of evidence-based approaches than has previously existed. In a sense, lessons have been learnt from the experience of reporting on the implementation of the Royal Commission recommendations, and across Indigenous affairs there is now ongoing assessment of progress against pre-agreed outcomes that measure real achievements. This ensures that there is less room for the 'public relations approach' to subsume the reporting process entirely.

22 Hand in hand with monitoring and performance measurement, there is a growing awareness of the importance and value of rigorous evaluation of criminal justice system policy and programs if we are to continue to learn about what works, what does not and what holds promise (see, for example, Memmott et al. 2001) (see the further discussion in Part 4).

A much greater emphasis on monitoring and performance assessment frameworks has developed over time:

- In 2008 and 2009, the Queensland Government published *Quarterly reports on key indicators in Queensland's discrete Indigenous communities* ('Quarterly Reports'). These reports represent the first reporting focus at the individual community level for Queensland's 'discrete Indigenous communities'.[23] As well as reporting on the implementation of programs in each community, these reports provide data at the community level for key indicators of community wellbeing, including hospital admissions for assault, reported offences against the person, convictions for breaches of alcohol restrictions, school attendance, children subject to substantiated notifications and children subject to finalised child protection orders (Queensland Government 2008b, 2008c, 2008d, 2009a, 2009b).
- From 2003 to 2009, COAG has commissioned the *Overcoming Indigenous disadvantage: key indicators* reports to document progress against identified indicators in an effort to measure the effects of changes to policy and service delivery and the outcomes for Indigenous people. The framework continues to be refined over time, but headline indicators include imprisonment and juvenile detention rates, rates of substantiated child abuse and neglect, and rates of family and community violence. The reports also identify strategic areas for action, and change indicators that include juvenile diversions as a proportion of juvenile offenders, alcohol consumption and harm, and repeat offending (SCRGSP 2003, 2005, 2007, 2009).[24]
- In 2007 and 2008, COAG agreed to six targets to 'Close the Gap' between the outcomes experienced by Indigenous and non-Indigenous people (COAG 2007, 2008; see also COAG 2009).[25] These targets are now incorporated in the *Overcoming Indigenous disadvantage* reporting framework and are to be reported on across Australia. Queensland reported separately on 'closing the gap' in 2007–08 (Queensland Government 2008e; see also SCRGSP 2009).
- In 2006, an independent review of the COAG trial in Cape York was conducted (Urbis Keys Young 2006).[26]
- Although flawed, the *Queensland Aboriginal and Torres Strait Islander Justice Agreement* has attempted, since 2000, to provide performance measures by which actions taken under the agreement can be assessed. The Queensland Government funded an independent evaluation of the agreement to give an indication of progress (see Cunneen, Collings & Ralph 2005).[27]

Although reporting at the national and state level is necessary, particularly to determine priority areas for funding allocation, disadvantage may come in quite different forms for those who live in urban, regional and remote areas. The reporting of disaggregated data at the local level in Queensland is the key to informing the development of strategies for on-the-ground implementation in Queensland's Indigenous communities. Although they do not include the Torres Strait Islands, Queensland's Quarterly Reports on key indicators, which provide disaggregated data for 19 discrete Indigenous communities, are a strong step in the right direction.

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23 The Queensland Government uses the phrase 'Queensland's discrete Indigenous communities' to describe those communities included in our inquiry, except for those in the Torres Strait Islands. It also includes the non-DOGIT communities of Coen and Mossman Gorge, which were not included in our inquiry.

24 The findings against some key indicators are summarised in Appendix 2.

25 In December 2007, three targets were agreed (closing the life expectancy gap within a generation, halving the mortality gap for children under five within a decade and halving the gap in reading, writing and numeracy within a decade). Three further targets were agreed in March 2008 (all four-year-olds in remote communities to have access to early childhood education within five years, at least halve the gap for students in Year 12 attainment or equivalent by 2020, and halve the gap in employment outcomes within a decade (COAG 2007, 2008).

26 The findings of this evaluation are briefly summarised in Appendix 2.

27 The findings of this evaluation are briefly summarised in Appendix 2.

Particularly in the short term, statistics alone can be misleading or disheartening, as effective intervention in some areas may take some time to show positive results; certainly things may appear to get worse before they get better. Recently, for example, statistics showing an increased number of Indigenous children subject to substantiated notifications of abuse or neglect have been variously interpreted as evidence of:

- further failure of government in this area (*Western Times* 2009)
- greater police activity and increased reporting (Macklin, cited in Rintoul 2009; Henderson, cited in Hawke 2009).

For this reason it is important that hard data need to be combined with some intelligence about progress that has been gathered from the communities themselves.

Finally, though the shift to reporting progress against benchmarks and key indicators is both necessary and commendable, such effort must be outstripped by the effort put into developing strategies to be implemented at the local level that do the hard work of actually improving outcomes (see the further discussion below).

Difficulties translating high-level policy into on-the-ground action

Despite the large number of reports and the frantic high-level policy activity that has occurred over the last two decades, it is clear that translating high-level policy into on-the-ground action remains a major challenge. This is especially true in the area of crime and justice.

Improved reporting and monitoring too frequently inform us that, despite a vast amount of money and effort, there is little or no change on the ground, or indeed that things have continued to deteriorate. A danger in trying to achieve whole-of-government action is that new coordinating structures and agreements or policy frameworks simply add additional layers of bureaucracy, with little improvement in coordinated action seen on the ground (Pearson 2006b; Abbott, cited in Hawke 2009). For example, Dr Patrick Sullivan argues that current levels of bureaucratic coordination have themselves become an impediment to on-the-ground action. He argues that there are now too many steps in the chain of delivery and there are too many 'chains'. He states: 'There's a whole range of hurdles to jump before the programs can hit the ground where they really matter.' He is critical of the Australian Government for not nurturing direct relationships with Aboriginal communities and through local government and regional Indigenous service delivery organisations (cited in Collerton 2009; see also Sullivan 2008).

Appendix 2 shows that many high-level commitments have been made and many goals have been set, but all too often there is little or no sustained effort put into developing strategies whereby such commitments and goals will be met or actioned, particularly at the local level. For example:

- In 2000, under the Ten Year Partnership 2000–2010, the Queensland Government stated that a statewide agreement on strategies would be developed for each of its priority areas, including for the 'family violence' priority. A draft 'Family Violence Action Plan' was published for consultation in July 2003. This action plan was said to be still under development in 2005 at the time of the evaluation of the Queensland Aboriginal and Torres Strait Islander Justice Agreement (Cunneen, Collings & Ralph 2005, p. 27). However, according to the Department of Communities (pers. comm., October 2007), it was never finalised and will not be pursued.
- In 2002, the Queensland Government's response to the Cape York Justice Study committed to a priority in the crime and justice area of developing at the local level 'Safer Communities Strategies'. These strategies were to involve the QPS, other agencies and communities and were to include agreement of how policing was to be carried out (see Queensland Government 2002).[28] Such plans were never developed.

28 This was consistent with Fitzgerald's (2001, pp. 379–80) recommendations that police negotiate with individual communities a community justice agreement to contain agreed expectations about enforcement of the law.

- From 2005, the Queensland and Commonwealth Governments agreed that Shared Responsibility Agreements (SRAs) would be negotiated at the local level to promote coordination and partnerships, and SRAs would be supported by local-level action plans.
- As part of a positive move toward supporting more 'place-based' approaches, since 2006 the Queensland Government has sought to negotiate agreements at the local level to direct action, called Local Indigenous Partnership Agreements (LIPAs). The Commonwealth Government committed to work through the LIPA process in Queensland rather than the SRAs that it had been pursuing in recent years. Three communities agreed a LIPA with the state government, but only one, the Mossman Gorge LIPA, involved the federal government.[29] The LIPAs that were agreed focus on other issues and provide very little detail on crime and criminal justice system matters. The LIPA process has now been abandoned and there has been a shift away from reaching 'agreements', which are clearly difficult to achieve, toward the development of community plans, which are now to be called Local Implementation Plans (LIPs).

It appears that, despite the repeated announcement of new, 'historic' policy frameworks, this often only leads to a 'repackaging' or 're-badging' of pre-existing programs. Underspends or substantial delays in getting government funds allocated spent on the ground are relatively common (Khadem 2006; Queensland Shelter 2009; QLA (McArdle) 2009). Government action is rarely sustained on any one front and there are some spectacular cases of 'white elephant' policy frameworks, action plans, programs, buildings and other facilities in these communities. Such failures are often blamed by governments on the lack of community support. At the same time, energy for local action from community members is sapped by the 'revolving door' of bureaucrats' short-lived involvement in and enthusiasm for the latest policy platform.

Part of the difficulty in translating high-level policy into on-the-ground action is that, although recognition of the need for 'community-based' or 'place-based' solutions may be firmly embedded in Indigenous affairs and in justice service delivery, often this recognition is not matched by appropriate capacity-building efforts in Indigenous communities, or government does not appropriately relinquish control to communities.[30]

Crime prevention is too often an 'add-on'

The area of crime prevention provides a good example of the broader point made above about the difficulties of translating high-level policy into on-the-ground action. Though crime prevention and early intervention have been frequently acknowledged as central to addressing the overrepresentation of Indigenous people in the criminal justice system, and have been said to be a priority, crime prevention and tackling the underlying causes of crime have, in reality, often been treated as an 'add-on' and have received less attention than other aspects of criminal justice system reform.[31]

That crime prevention often continues to be something of an 'add-on' in terms of government policy and programs — at least in terms of on-the-ground strategies — may be in part due to the legacy of the Royal Commission we have referred to above, which appears to have led to a degree of misplaced confidence about the capacity of reforms to the criminal justice system to reduce Indigenous overrepresentation. It may also reflect the fact that crime prevention is a complex area that necessarily requires a high degree of community engagement and sustained support from government, which are very difficult to achieve.

29 Mossman Gorge is not within this inquiry's terms of reference (see Chapter 1).

30 It is frequently reported that communities feel that government has continued to exert control or 'tell us what to do' in regard to community-based programs (see, for example, Urbis Keys Young 2006; Blagg 2008, p. 118).

31 The notable exception is the attempt by the Queensland Government to tackle alcohol problems subsequent to the recommendation of the Cape York Justice Study (Fitzgerald 2001).

As we have stated above, only one supporting outcome of the *Queensland Aboriginal and Torres Strait Islander Justice Agreement*, 'effective early intervention with those at risk of becoming involved in the criminal justice system', is focused on addressing the underlying causes of crime. The key action for effective early intervention is to 'provide grants for crime prevention programs'. Reliance on such grants-based funding, which usually provides small, one-off amounts of money for community-based crime prevention programs, has not produced the strong, strategic and evidence-based focus on crime prevention that is needed in Queensland's Indigenous communities; rather it has provided an ad hoc, piecemeal and poorly sustained crime prevention response. The agreement puts great store in the prospects of reducing Indigenous overrepresentation in the criminal justice system by improving the operation of that system, but even in this respect it provides little emphasis on maximising the crime prevention effect of the various aspects of the criminal justice system on offenders.

The latest strategy, COAG's *Closing the Gap* initiative, does not have a target that directly addresses the area of reducing Indigenous crime and violence. The six agreed COAG targets provide, however, a substantial early intervention focus in areas such as health and education that will lead to crime prevention action. At this stage, however, the *Closing the Gap* initiative has provided little further clarity about particular strategies by which we can achieve on-the-ground crime prevention results in Indigenous communities (see, for example, Queensland Government 2008e).

Summary and conclusions: a lot of effort but little improvement

This chapter has described some of the key influences and trends in Indigenous affairs relevant to our inquiry. There can be no doubt that enormous sums of money, and a huge amount of bureaucratic effort, have been devoted to addressing Indigenous disadvantage over the past 20 years, including in the area of crime and justice.

The influence of key reports

The Royal Commission into Aboriginal Deaths in Custody continues to remain a very powerful influence on issues of criminal justice and policing for Indigenous people. In particular, the legacy of the Royal Commission includes a strong focus on criminal justice reforms such as diverting people away from the criminal justice system to reduce Indigenous overrepresentation in custody.

Certainly, the Royal Commission's recommendations have triggered substantial reform in certain areas — for example, much greater attention has been given to diverting people away from police custody and to improving watch-house safety. Nevertheless, over 18 years after the Royal Commission, its most fundamental aim of bringing about a reduction of Indigenous overrepresentation in custody has not yet been achieved. This is probably the result of both the poor performance of governments in properly implementing its recommendations, and the fact that the Royal Commission's legacy in terms of government policy and programs has been focused on the criminal justice system reforms. The subsequent development of government policy and programs reflects a great (and misplaced) faith in the ability of criminal justice system initiatives, for which there is little or no evidence of a crime prevention effect, to reduce Indigenous overrepresentation in the criminal justice system.

Since the Royal Commission, the *Aboriginal and Torres Strait Islander Women's Task Force on Violence report* and the *Cape York Justice Study report* have provided an increased recognition of Indigenous people as victims of crime rather than just offenders. There has also been a growing recognition that, to reduce Indigenous overrepresentation in the criminal justice system, more emphasis needs to be placed on improving community safety and developing community-based crime prevention and early intervention strategies that address the underlying causes of crime, particularly alcohol.

The most substantial reform introduced by the Queensland Government's response to the Cape York Justice Study — and one that does seek to address underlying causes of crime — was the implementation of Alcohol Management Plans to restrict the availability of alcohol in 19 Indigenous communities.

Broad lessons from 20 years of reports and policy developments

In recent years, there have been major policy reforms across Australia in relation to Indigenous affairs, including issues of crime and justice. There have also been considerable administrative changes, such as the disbanding of ATSIC. Although this high level of policy activity and reform has not been accompanied by any obvious sense of progress over the last two decades, a number of areas have been improved and some lessons have been learnt.

First, there has been increasing recognition that effective partnerships and whole-of-government coordination are essential for success, and various efforts have been made to develop these. Despite this, partnerships and whole-of-government coordination often remain more of a goal than a reality. Continuing changes in administrative structures and announcements of new high-level policy frameworks or agreements make achieving these goals considerably more difficult, and such constant change carries with it real opportunity costs such as the lost energy and effort of government officers and communities.

Governments continue to struggle to engage effectively with Indigenous people and communities. Government workers are often frustrated by the lack of community response to what is a veritable 'revolving door' of government programs, initiatives and workers' 'fly-in, fly-out' approaches to these communities.

Monitoring and performance measurement frameworks across Indigenous affairs have been improved. In the past, reporting on programs often tended to lapse into government 'PR' language and did not acknowledge the difficulties or failings of programs. The current COAG frameworks (Overcoming Indigenous Disadvantage and Closing the Gap), and Queensland's Partnerships Queensland reporting processes (which include the Quarterly Reports on key indicators), have brought a great deal more transparency and rigour to monitoring and reporting, with progress now assessed against pre-agreed indicators that measure real achievements. In particular, the Queensland Government's Quarterly Reports, which provide data at an individual community level for many of Queensland's Indigenous communities, are a powerful tool for informing policy and program development.

Despite an obvious amount of government effort at the policy formation and monitoring levels, it remains difficult to translate high-level policy into on-the-ground action and results. The development of local-level or subject-specific action plans to translate overarching policy into strategies for achieving on-the-ground results has rarely been achieved and we have not found any examples where the implementation of such local-level plans has been sustained.

The development of effective crime prevention strategies has often been treated by governments as a policy 'add on' and crime prevention has received less attention than other aspects of criminal justice system reform. This may reflect the fact that crime prevention is a complex area that necessarily requires a high degree of community engagement and sustained support from government, which are very difficult to achieve.

This chapter has considered the broad policy context, at both the national and the state level, that has influenced the approach taken to Indigenous criminal justice issues over the last 20 years. In the past there has been a tendency for many reports and policy responses to have a homogenising effect. The Royal Commission, for example, considered criminal justice issues for Aboriginal people across Australia, and indeed these are issues of national importance. The danger with such an approach is that solutions to the complex crime and justice problems facing Indigenous people may overlook the fact that they must often be tailored to the needs and capacities of people in particular places. It is important, for example, to draw a distinction between the problems and the approaches needed in urban and regional areas, and those of more remote Indigenous communities.

Our inquiry required us to closely examine the policing and criminal justice issues in Queensland's Indigenous communities. Such an examination fits well with the Queensland Government's improved focus in recent years on the distinct circumstances of remote and other discrete Indigenous communities (which can be seen in Queensland's move to 'place-based' approaches). In Chapter 3 we begin this task by providing background information on the particular circumstances of these communities.

3

QUEENSLAND'S INDIGENOUS COMMUNITIES: GENERAL CHARACTERISTICS AND SERVICES

Queensland's Indigenous communities are unique for reasons related to their size, remoteness and history. There is no doubt that Queensland's Indigenous communities have strengths, such as their Indigenous culture and, for some, their geographical setting and surrounding environment. However, the scale of the challenges they face because of their size, remoteness and history is undeniable. These factors contribute to the challenges faced in the communities in terms of limited infrastructure and services, and high costs of living. Such challenges affect locals and also those who come to work and live in the communities. For example, a recent survey that assessed the amenity of places according to such factors as the availability of services concluded that a number of Queensland's Indigenous communities were among the ten 'worst places to live' in Australia (BankWest 2008, p. 4).

This chapter sets out some basic information about Queensland's Indigenous communities and their key characteristics, including their:

- **uniqueness**
- **population**
- **location**
- **governance and local authority**
- **infrastructure and services (other than policing and criminal justice services, which are described in Chapter 6)**
- **cost of living**
- **employment, industry and income.**

Queensland's Indigenous communities are different

Queensland's Indigenous communities have much in common from the viewpoint of cultural characteristics, but they also vary in many important ways.[32] As well as being different from each other, the communities have important lines of difference internally.

These communities stand apart from other communities in Queensland as they have a history of being artificially created; they were established when Indigenous people were relocated from different parts of the state into what were formerly reserves or missions.[33] These communities today continue to be the home of families and groups who were relocated from elsewhere in the past, and also of traditional local owner groups. Many Aboriginal communities in Queensland received a further mass relocation of Aboriginal families from cattle stations after the equal wages case of 1965, which effectively excluded them from the cattle industry.

The culture and history of the Torres Strait Islands must be distinguished from those of Aboriginal communities. However, some predominantly Aboriginal communities have many Torres Strait Islander residents, such as Lockhart River and Napranum. In the Northern Peninsula Area, the communities of Injinoo, Umagico and New Mapoon identify as

32 As stated earlier, we refer to those communities within the scope of our inquiry as 'Queensland's Indigenous communities' throughout this report. We are aware, however, that the use of this terminology tends to homogenise groups of people who, although they share some common characteristics, are unique.

33 This is true for many but not all communities in the Torres Strait Islands.

Aboriginal communities, while the communities of Bamaga and Seisia identify as Torres Strait Islander communities.

The communities vary linguistically also. Although all Indigenous people in these communities have distinctly Indigenous ways of communicating, in some communities English is the only language widely spoken, while in other communities, such as Aurukun and in the Torres Strait, local languages are still very much alive and English is not the first language of many people. Forms of Aboriginal English, pidgin and kriol are used in many communities; kriol languages are spoken at Lockhart River, in the Northern Peninsula Area and in the Torres Strait Islands (see Eades 1992; Supreme Court of Queensland 2005).

Although differences exist across the communities, there are also important differences within each 'community' — for example, communities are often highly factionalised along family, kinship or other lines (such as the issue of how alcohol should be managed in the community).

Population

Indigenous people constitute just over 3 per cent (*n* = 127 578) of Queensland's population (ABS 2007a).

About seventeen per cent of Queensland's Indigenous population (21 961 people) live in Queensland's Indigenous communities that are the main focus of this inquiry.

Queensland's Indigenous population is a young one. At 30 June 2006, the median age in the 34 Aboriginal and Torres Strait Islander council areas in Queensland was 24 years, much younger than the non-Indigenous population (median age 36 years; ABS 2008b). In 2006, nearly half (49%) of the Indigenous population was aged less than 20 years, compared with 27 per cent of the non-Indigenous population. In contrast, only 12 per cent of Queensland's Indigenous population was aged 50 years and over, compared with 31 per cent of the non-Indigenous population (ABS 2007b).

Queensland's Indigenous population is also a growing one. By 30 June 2009, ABS projections indicate that Queensland's Indigenous population will be between 148 100 and 169 300 people (ABS 2004). Each age group is projected to grow, with the largest increases projected for young Indigenous people in the 15 to 19 and 20 to 24 year age groups.

Aboriginal communities

There are 17 Aboriginal communities, with a total population of about 14 800 people.

The size of these communities ranges from just over 200 people in Old Mapoon and Umagico to populations of around 2000 people at Yarrabah and Palm Island. A number of communities have a population of just over 1000 people; these are Aurukun, Cherbourg, Doomadgee, Kowanyama and Mornington Island.

See Appendix 3 for further details of the population of each Aboriginal community.

Torres Strait Islander communities

There are 20 Torres Strait Islander communities, with a total population of about 8600. The individual community populations range from 76 at Ugar (Stephen Island), 170 kilometres north-east of Thursday Island, to 2547 people on Thursday Island.

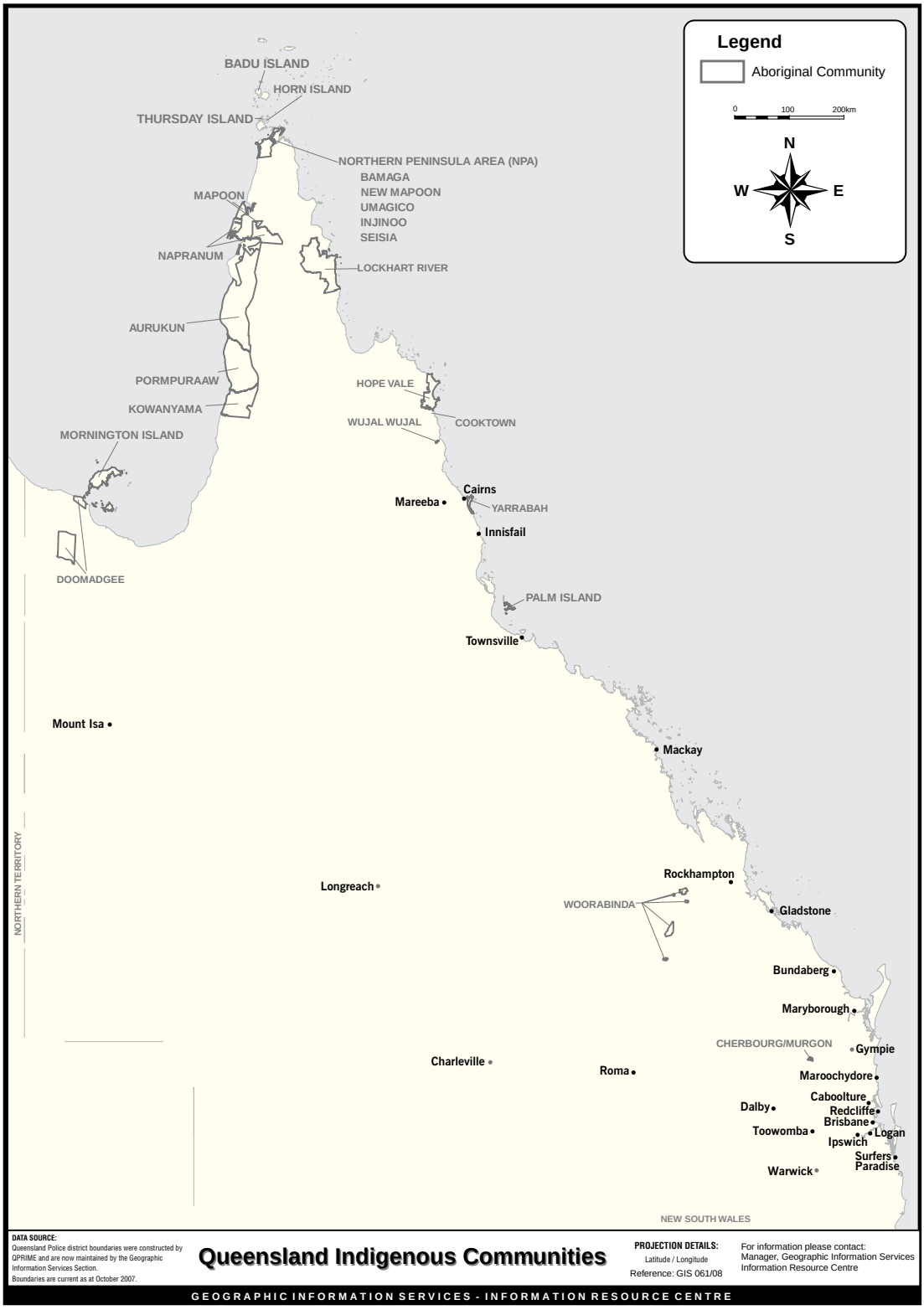
On the mainland, Bamaga is quite large, with a population of about 780. Seisia has a population of around 165. (These two communities are located in the Northern Peninsula Area, a very short distance from the three Aboriginal Northern Peninsula Area communities of Injinoo, Umagico and New Mapoon).

Appendix 3 also provides details of the population of each Torres Strait Islander community.

Location

Most of Queensland's Indigenous communities are remote or very remote. Their locations are shown on Maps 1 and 2.

Map 1: Queensland's Indigenous communities



Source: QPS.

As Map 1 shows, with the exception of Cherbourg, Woorabinda, Palm Island and Yarrabah, all the Aboriginal communities are in Cape York Peninsula and the Gulf of Carpentaria. Woorabinda is 175 kilometres south-east of Rockhampton and Cherbourg is about 280 kilometres north-west of Brisbane and 6 kilometres from Murgon. Palm Island is located off the east coast, about 65 kilometres north-west of Townsville, and is accessible by a 20-minute plane trip or a 2½-hour ferry trip. Yarrabah is about 45 kilometres south-east of Cairns.

Of the Cape York communities, some are very remote. For example:

- The western Cape York communities of Kowanyama, Pormpuraaw and Aurukun are all many hundreds of kilometres from Cairns.
- Lockhart River, on the north-eastern coast of Cape York Peninsula, is about 800 kilometres north from Cairns and 280 kilometres east of Weipa.
- Although the five Indigenous communities in the Northern Peninsula Area are all within 5 to 15 minutes drive of each other, they are over 900 kilometres north of Cairns and 35 kilometres south-west of Thursday Island on the furthermost tip of Cape York Peninsula.

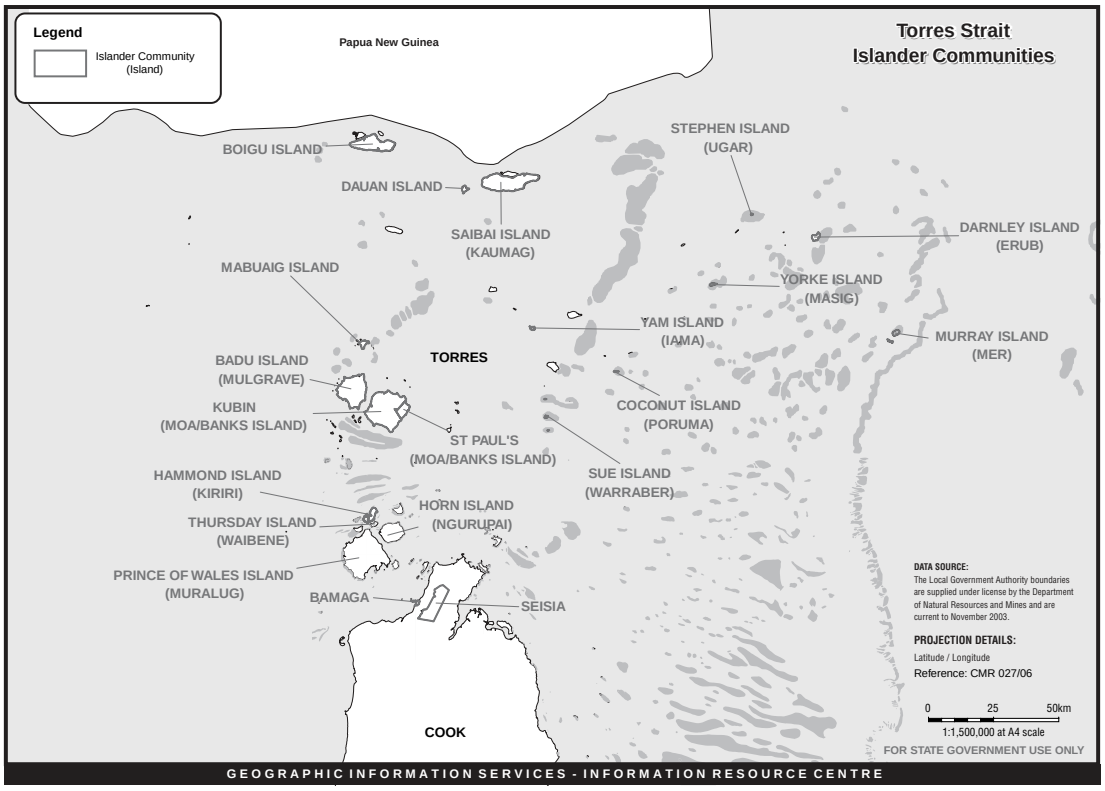
Napranum and Old Mapoon are also located on the remote west coast of Cape York Peninsula, but are in closer proximity to the mining town of Weipa — about 13 kilometres away and 90 kilometres away respectively.

Wujal Wujal and Hope Vale in south-eastern Cape York are both close to a larger regional town, being about 72 kilometres and 46 kilometres from Cooktown respectively.

The Gulf communities are very remote:

- Doomadgee is 100 kilometres inland from the Gulf of Carpentaria, about 100 kilometres from the Northern Territory border and over 500 kilometres north of Mt Isa
- Mornington Island in the Gulf of Carpentaria is only accessible by air and sea.

Map 2: Torres Strait Islander communities



Source: QPS.

As Map 2 shows, the Torres Strait Islands are geographically unique, with over 130 islands in an area spanning over 42 000 square kilometres, and sharing an international border with Papua New Guinea (PNG). There are eighteen communities spread across the Torres Strait Islands (and two more communities — Bamaga and Seisia — are located on the mainland in the Northern Peninsula Area). Thursday Island is considered the 'capital'; it provides the administrative centre. Boigu, the northernmost island, is only 6 kilometres from PNG.

The location of the communities determines their accessibility. With the exception of the island communities, they are accessible by road for much of the year but access may be limited to regular air services, charters or emergency flights during the wet season. The island communities are even more heavily reliant on flights. All the island communities are accessible by sealed all-weather airstrips, except for Dauan and Ugar (Stephen Island) in the Torres Strait, for which access is by boat only.

Governance and local authority

Governance and social control in these communities are complicated by their history and the historical artificial grouping of various cultural groups. Both traditional and contemporary or non-Indigenous forms of governance and social control operate to varying degrees in these communities; in many places, however, traditional forms of authority and social control have been ravaged by the process of colonisation. For example, Pearson (2003) has argued that, although mutual obligation, respect, defence of close kin and individual autonomy are strong features of Indigenous culture, 'abusive and irresponsible' individuals now draw on these aspects of Indigenous culture in a destructive way.

Governance of Queensland's Indigenous 'communities' today is often highly political, with deep factional divisions on cultural lines — for example, according to whether people are traditional owners or whether they are those with more recent historical associations with the area — or along lines determined by family or clan membership. The governance of the Cape York communities, for example, has been described as 'intensely political with high potential for conflict of interest' (CYIPL 2005a, 2005b; see also Ellerman 2002).

Extensive damage has been done to the pre-colonial systems of Indigenous social control and the end of externally imposed mission control in the 1970s, saw these communities left with a power vacuum. The impact of that vacuum is still reverberating today. Governments (state, federal and local) continue to play a far greater role in governance and social control in these communities than is the case in other areas.

It is widely acknowledged that there are often a small number of individuals in these communities who are extremely active and provide leadership across a range of areas and initiatives (see Pearson 2003). However, in general the communities can be characterised by their low rates of social responsibility, community involvement and engagement with community decision-making processes (see CYIPL 2005a, 2005b).

Traditional owners may play an important role in some decision-making in the community, particularly those decisions involving land use. Where native title determinations have been reached (such as around Aurukun) the organisational structure demanded by that recognition (that is, a Prescribed Body Corporate) will also play some role in community governance.

Local councils

In all these communities, Indigenous councils constitute an elected representative body to provide local government services. These councils also perform other functions not usually associated with conventional local councils; for example, they have played a major role in housing and employment.

Power, and the control of resources, is often concentrated in these communities in the council, and in particular families represented on the council. Throughout their history allegations of corruption and abuse of power have been made against Indigenous councils with some regularity (Ellerman 2002).

The capacity of local councils and their ability to provide an effective form of local authority vary. From 2004 the Queensland Government has implemented a Community Governance Improvement Strategy that aims to build the capacity of councils, for example by providing improved training for councillors and council staff (see Queensland Government 2008e).[34]

In our final consultation conducted for this inquiry we were informed that, in the most recent round of council elections, most elected councillors had campaigned on an anti-AMP platform. As a result, a number of the current councils are said to be heavily, or even entirely, focused on increasing the supply of alcohol to community members.

Infrastructure and services

The infrastructure and services in the communities are limited. Many services are provided on a 'fly-in, fly-out' basis and other services must be accessed in the closest towns and regional centres.[35]

There is a permanent, though limited, presence in all the communities of health, education and policing services (Chapter 6 provides details of the police and other criminal justice services available in Queensland's Indigenous communities). Accommodation for visitors to these communities is generally very limited or absent.

Health services

A variety of models are used to provide health services in the communities. Mornington Island, for example, has its own small hospital. Kowanyama has a medical clinic permanently staffed by a Royal Flying Doctor Service doctor, nursing staff and health workers from the community and is open seven days a week. Aurukun has a health clinic staffed by nurses and regular visits from the Royal Flying Doctor Service and specialist health services.

In the Torres Strait Islands, Badu, Mabuaig and Moa Islands of the Western Islands, Yam and Sue of the Central Islands and Darnley in the Eastern Islands have, or are constructing, health centres. A hospital and a dentist are available on Thursday Island.

In many communities there is limited, if any, access to health services other than a general practitioner, such as dental, optical, physiotherapy or medical specialist services.

Education services

Many of the communities provide some early childhood education service. Some communities, such as Hope Vale, Wujal Wujal and Pormpuraaw, have no schooling available in, or close to, the community after Prep to Year 7. Young people from Cherbourg travel to nearby Murgon to attend high school. Many communities have schools that cater up to Year 10, including Aurukun, Doomadgee, Kowanyama, Mornington Island, Palm Island and Woorabinda.

The Western Cape College Weipa Campus provides education to Year 12, which may be attended by young people from Napranum, Old Mapoon or other Western Cape York communities. The Northern Peninsula Area College offers education for students from the

34 The budget for the programs under this strategy in 2007–08 was $6.1 million (Queensland Government 2008e, p. 72).

35 The Queensland Government's regular *Quarterly report on key indicators in Queensland's discrete Indigenous communities* provides information by community on the services available (see Queensland Government 2008b, 2008c, 2008d, 2009a, 2009b).

five Northern Peninsula Area communities to Year 12. Lockhart State School provides school to Year 12. In recent years, increased efforts have been made to allow greater numbers of children from these communities to attend 'mainstream' schools for their secondary education; a wide range of schools in Cairns and many of the state's elite boarding schools, for example, currently have boarders attending from these communities.

A number of the communities have TAFE campuses and opportunities for vocational education and training. For example, there is a Bamaga Campus of the Tropical North Institute of TAFE that offers vocational education and training. Palm Island and Cherbourg also have TAFE campuses.

In the Torres Strait Islands, Taigai State College provides education through 17 campuses, with one on each island, offering pre-Prep to Year 7. High school is provided on Thursday Island.

Other services

Stores

Each community has a 'community store', a small supermarket. Some of these are community operated and some are privately run by people who have come from outside the community. Some communities also have a small takeaway food outlet.

Taverns

Most communities have had, or have, access to a tavern or canteen that sells alcohol. The licensees of the taverns in these communities were the local Indigenous councils, who were often heavily reliant on their tavern for revenue.[36]

Since the early 2000s, all of the community taverns except those in the Torres Strait Islands operated under restrictive licence conditions, in conjunction with Alcohol Management Plans, in order to reduce the availability of alcohol. Under such restrictions, the taverns have limited opening hours and limited types of alcoholic drinks available, with lower alcohol content.

In July 2008, the Queensland Government introduced more alcohol reforms aimed at further restricting the availability of alcohol, with a commitment to providing support services to assist communities to go 'as dry as possible'. Local Indigenous councils no longer act as licensees[37] and they now receive substantial additional state government funding to compensate for the loss of tavern revenue for a number of years (Boyle 2009a). At the time of publication, in many communities the taverns were shut, although we were made aware through consultations that in some communities licence applications for non-local council licensees were pending.

Accommodation

The high cost and low supply of housing in Indigenous communities is a continuing difficulty. Building and maintenance costs are high in remote locations, and land tenure issues[38] have also contributed to the difficulties in making more accommodation available.

36 Because of land title issues, local councils in these Indigenous communities are unable to raise revenue through rates.

37 The exception is the Torres Strait Islands Regional Council, which holds a general liquor licence until December 2009. Alcohol restrictions have not been introduced in the Torres Strait Islands. A restricted liquor licence is also held by the Pormpuraaw United Brothers Sports Club.

38 Land title in these communities is not privately owned but is communal — that is, it is held in trust for the benefit of all. This situation has arisen in part to ensure that title to land in Indigenous communities cannot be further alienated from Indigenous people. However, communal forms of title add a further layer of complexity to housing difficulties. In recent years the Queensland Government has been introducing legislative reforms to try to ameliorate these issues (see the *Aboriginal and Torres Strait Islander Land Amendment Act 2008*; see also Memmott et al. (2009) for some analysis of the complexity of this issue).

The serious impact of overcrowding on Indigenous residents of these communities is well known, including its detrimental effects on health, but the lack of accommodation also creates many difficulties for governments and is often given as the reason for the lack of on-the-ground service delivery (see Queensland Government 2008c, p. 3; see also Chapter 11 for further discussion of its impact on policing).

Few communities have adequate accommodation for visitors. Although this is gradually being remedied,[39] it contributes to the often-criticised 'fly-in, fly-out' nature of much service delivery.

There are few other services generally available in Queensland's Indigenous communities. As the CEO at Lockhart River explained, that community has no hairdresser, clothing or other shops, newsagent, deli/café/restaurant, theatre, swimming pool, gym or mechanic. Supplies arrive infrequently, by truck or barge. Until recently there has been limited internet access in many communities and only CDMA mobile phone access (now the Next G network).[40]

Cost of living

The cost of living is very high in many of Queensland's Indigenous communities, especially so for those in remote and very remote locations.

Travel and freight costs often greatly increase the cost of living for residents. These costs may be passed on to residents when they pay for the goods and services available in the community. For example, basic items such as nappies, household products and fresh food at the community store are generally very expensive. Some items are now subsidised by the Australian Government to promote a healthy diet, but many items cost about three times the Brisbane retail cost. For example, during our consultations we saw a young mother in one store pay $100 for six basic items that would have cost under $30 in Brisbane.[41]

The cost of obtaining and maintaining electrical and whitegoods is also greatly inflated and this was a problem for some police. One police officer-in-charge (OIC) explained that whitegoods do not last long because of local factors such as poor water quality and it is impossible to have them fixed as there is no local repair service.

Accessing services and goods from outside the community may also carry a large financial cost, especially where air travel is required. There is a very low rate of private ownership of vehicles (and, in the case of coastal or island communities, boats) and virtually no public transport is available to and from most communities. As the manager of a childcare centre stated: 'I have to spend $1000 just to get my hair cut.'

Employment, industry and income

Most of those locals considered to be 'employed' in Queensland's Indigenous communities are on the Community Development Employment Projects (CDEP) scheme — that is, the Australian Government's 'work for the dole' scheme. CDEP and other welfare payments provide the source of income for the vast majority of the residents of Queensland's Indigenous communities

39 We were informed during our final consultations in 2009 that Mornington Island, for example, plans to convert the tavern facilities into a motel.

40 In 2009, the Australian Government has allocated $7 million under the *Closing the Gap* initiative to improve public access to internet facilities in Indigenous communities across Australia where there is limited or no internet access (Dearne 2009).

41 During 2009, an Australian Government inquiry into community stores has been under way. This inquiry is investigating grocery prices, food quality and overall living expenses in remote Aboriginal and Torres Strait Islander communities and has received submissions from many of those remote Indigenous communities in Far North Queensland (see <www.aph.gov.au/house/committee/atsia/communitystores/subs.htm>).

(CYIPL 2007; Hughes 2007).[42] The average personal income of people in Queensland's Indigenous communities is low. For example, in the Cape York communities it is about 60 per cent of the average Australian income (CYIPL 2005a, 2005b).[43]

Mainstream employment — that is, excluding CDEP — is virtually non-existent. Limited employment opportunities exist in some Cape York communities in the mining industry, and smaller numbers in the tourism industry. Even where there are such opportunities, significant barriers remain to maximising their benefit to community members. For example:

- Traditional values associated with reciprocity, which lead to demands for income sharing with family members, act as a disincentive to employment.
- Lack of job readiness, because of low levels of education and English competence, prevent such positions being filled by community members.

Importantly, most of Queensland's Indigenous communities are not within commutable distance of centres offering substantial employment opportunities.

Few enterprises or small businesses exist in these communities, and where they do exist they are often run by, or employ, non-Indigenous people. Non-Indigenous people also vastly dominate the service delivery jobs that do exist in the communities, including nursing, teaching and policing. Construction and maintenance also tend to be performed by non-Indigenous contractors.

Largely on economic grounds, the viability of small remote communities into the future has increasingly been questioned (see Hughes 2007; Johns 2009). On the other hand it also has been powerfully argued that:

- it is simplistic to assume that relocating Indigenous people to larger economic centres alone will help to solve the problems of residents of these communities
- these communities do have the potential to be sustainable in the future.

For example, it is argued that economic viability may be achieved in the future by increasing the engagement of community members with the 'real economy', through maximising the mobility of community members to leave and return to the communities for education and employment opportunities, and by encouraging more private enterprise and small business development (CYIPL 2005a, 2005b; Pearson 2008).[44]

Gradual improvements, and dramatic declines, over time

Although current living conditions and infrastructure in Indigenous communities are generally of a much lower standard than in other remote or rural communities, it should be noted that in certain respects these have improved considerably over the last 30 years in some areas. On the other hand, there are aspects of community amenity and infrastructure that can be said to have deteriorated dramatically over the same time since the end of the mission period.

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42 During the period of our consultations, responsibility for local administration of CDEP at Napranum, Old Mapoon and Injinoo transferred from councils to a private operator, which translated part-time CDEP jobs to fewer full-time positions, though the 'new' positions remained with councils. We were told that this had significant implications for those councils; they had to reduce the scope of the services they provided, which included terminating the community policing function.

43 Government CDEP payments, which have provided the income for most people in these communities, are about $220 per week.

44 Assessing the future of these communities on purely economic grounds may ignore other important cultural and historical aspects. Interestingly, recent research undertaken by Reconciliation Australia and Auspoll (2009) shows that the general public has a high level of interest in learning more about Indigenous history and culture and a strong desire to have more contact with Indigenous Australians. It also shows a significant gap in perceptions and suggests that one important way to close this gap is to support Indigenous Australians in finding ways to share their culture with non-Indigenous people, and to support non-Indigenous Australians in finding ways to learn about, experience and take pride in Indigenous culture.

The extent of improvement in some aspects of infrastructure in Aurukun, for example, was outlined by anthropologist Dr David Martin in his affidavit to the Queensland Court of Appeal in relation to the widely publicised 'Aurukun nine' rape case (*R v. KU & ors; ex parte A-G (Qld)* [2008] QCA 154). He indicated that, over the last three decades in Aurukun, access to 'the outside world' and 'the wider region' has greatly increased, and the quality and availability of basic services have improved (pp. 7 & 11). In particular:

- there is now a regular air service between Aurukun and Cairns
- mobile telephone services and internet access are available
- water, power and sewerage are now available to all households
- the school and hospital at Aurukun both have access to much better facilities and resources than in 1975
- a general store has recently been built, supplying a greater variety of food and other items to community members than had previously been available (although it is still generally very expensive).[45]

Over recent years, in the Queensland Government the former Government Coordination Office — Indigenous Service Delivery (now part of Aboriginal and Torres Strait Islander Services) provided central coordination for the improvement of services in these communities and this office appears to have made some progress.

On the other hand, another anthropologist, Professor Peter Sutton describes his experience of living in Aurukun in the early 1970s and draws a contrast with the situation today in which there is a dearth of community involvement in the services available in the community. He states in the 1970s (2009, p. 40):

> …Local men mustered cattle and ran the local butcher shop, logged and sawed the timber for house-building, built the housing and other constructions, welded and fixed vehicles in the workshop, and worked the vegetable gardens, under a minimal set of mission supervisors. Women not wholly engaged in child-rearing worked in the general store, clothing store, school, hospital and post office.

Summary and conclusions: unique circumstances in these communities

Queensland's Indigenous communities are different from most other places in Queensland. Although each of Queensland's Indigenous communities is unique, they share some common features.

These are small communities, ranging in size from about 200 people to 2000 people.

There are 17 Aboriginal communities, with a total population of about 14 800 people and there are 20 Torres Strait Islander communities with a population of about 8500. The Indigenous population profile in Queensland is quite distinct from that of the non-Indigenous population in that it has a far greater proportion of young people and is a rapidly growing population.

The communities are mostly in remote or very remote locations, and many are inaccessible for varying periods during the wet season.

45 The Australian Government subsidises some food groups to promote healthier eating.

Because of factors such as their size, remoteness and history, Queensland's Indigenous communities face challenges on a scale experienced by few other communities, including that:

- 'community' governance and social control are often plagued by factional fighting, particularly along lines determined by family or clan membership
- although a small number of individuals are extremely active and provide leadership across a range of areas, community involvement and engagement in decision-making are generally low
- though they have a limited on-the-ground presence, federal and state governments play a far greater role in governance and social control in these communities than is usually the case elsewhere; the influence of effective local authority is limited
- there is limited infrastructure and community-based service provision:
  - though there are some community-based education, health and police services, other services are largely provided on a 'fly-in, fly-out' basis
  - limited accommodation causes overcrowding and provides an obstacle to service provision
- the cost of living is very high
- opportunities for employment are very limited (and largely dominated by non-Indigenous people); most community members are welfare dependent.

Despite these ongoing challenges, Queensland's Indigenous communities have seen gradual improvements over time in terms of their access to regional centres and elsewhere, and the quality and availability of basic services have improved. On the other hand, it appears that community involvement in providing basic services to their community has declined in the last 30 years.

We have already stated that solutions to the complex crime and justice problems facing Indigenous people must be tailored to the needs and capacities of people in particular places, and this chapter has provided some of the information necessary in order to approach this task for Queensland's Indigenous communities. We move now from consideration of general community characteristics to very specific consideration of the crime patterns in Queensland's Indigenous communities. An ongoing examination of the crime patterns in these communities is also needed in order to develop and inform appropriate responses. We begin this task in Chapter 4 by examining data and arguments about the patterns of crime in Queensland's Indigenous communities; this provides important context for the further chapters of this report.

4

CRIME PATTERNS IN QUEENSLAND'S INDIGENOUS COMMUNITIES

Sadly, Indigenous communities are well known for their high levels of crime and violence. The high rates of Indigenous contact with the criminal justice system are a national tragedy.

It is our view that in the past governments have tried to respond to a somewhat erroneous and also an overly homogenised view of the patterns of Indigenous crime. Little effort, for example, has been directed at developing the picture of how the patterns of crime in remote Indigenous communities might differ from those of Indigenous populations in regional and urban centres. Until the recent inclusion of some limited information in the Queensland Government's Quarterly Reports, there has also been little effort directed at understanding the differences between particular Indigenous communities in terms of their patterns of crime, and tailoring responses appropriately.

It is our belief that the more that policy and program responses can be tailored to specific communities, the greater the likelihood of successful outcomes. For that reason this chapter presents information about the general patterns of crime in Queensland's Indigenous communities, and describes some notable patterns for particular communities.

Indigenous overrepresentation

It is well known that Indigenous people are overrepresented in the criminal justice system. For example:

- Indigenous people are overrepresented as both victims and perpetrators in all forms of violent crime. In particular, Indigenous people are overrepresented in homicides and assaults, both as offenders and as victims, in comparison with other Australians (Dearden & Jones 2008; Mouzos 2001; SCRGSP 2009). Recently published data, for example, show that in 2006–07 across Australia Indigenous people were hospitalised as a result of spouse or partner violence at 34 times the rate of non-Indigenous people (SCRGSP 2009, p. 4.131).
- Indigenous people are highly overrepresented at the less serious end of the scale, for good order or public order offences such as offensive language and behaviour offences, which are said to rest heavily on the exercise of police discretion (Cunneen & Robb 1987; Jochelson 1997; Johnston 1991, vol. 2, pp. 194, 200–202; CMC 2008).

It is also well known that, given the relatively small proportion of Queensland's population that they comprise, Indigenous people attract a disproportionately high percentage of police attention for reported crimes. Overall, Indigenous people account for about 3.5 per cent of the state's population but they make up 18.5 per cent of offenders in QPS crime report data (Queensland Government 2007b).

We analysed the data provided by the Queensland Police Service Statistical Review for 2007–08 to determine the proportion of Indigenous and non-Indigenous offenders coming to the attention of police statewide (see QPS 2008a). These analyses revealed that for adults in Queensland in 2007–08 Indigenous people were identified as offenders, and received some form of police action (arrest, caution, community conferencing, notice to appear, summons, warrant or some other action), in:

- 33.4 per cent of offences against the person
- 36.9 per cent of offences against property
- 29.0 per cent of 'other' offences.

For juveniles, Indigenous people were identified as offenders in:

- 26.8 per cent of offences against the person
- 19.6 per cent of offences against property
- 10.9 per cent of 'other' offences.

These data are presented graphically in Appendix 4 (Figures 1–6).

Indigenous Queenslanders are also overrepresented in other areas of the criminal justice system. For example:

- Indigenous young people made up 61 per cent of juveniles in detention in Queensland at 30 June 2007 (Queensland Government 2007b)
- Indigenous adults made up 27 per cent of those in prison in Queensland at 30 June 2008 (Queensland Corrective Services (QCS) 2008, p. 69; see also ABS 2008a).

It is also widely acknowledged that overrepresentation is 'worse' in remote Indigenous communities than in regional and metropolitan centres. For example, it is known that the high level of homicides among Indigenous people is concentrated among residents of remote communities (Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999; Martin 1993; Sutton 2009; see also Al-Yaman, Van Doeland & Wallis 2006; SCRGSP 2009, p. 4.133).

Although we do not know the proportion of young people in detention who are from Queensland's Indigenous communities, we do know that in 2008 about 80 per cent of youth at Cleveland Youth Detention Centre in Townsville were Indigenous. This centre provides detention facilities for young men and boys from all areas north of, and including, Townsville — that is, the area in which most of Queensland's Indigenous communities are located. In contrast, the proportion of Indigenous young people in the Brisbane Youth Detention Centre for the same year was about 44 per cent (Commission for Children and Young People and Child Guardian 2008).

Similarly, though we do not know the proportion of adult prisoners incarcerated in Queensland who are from Queensland's Indigenous communities, the prisons servicing areas that include Queensland's Indigenous communities (Lotus Glen Correctional Centre near Mareeba, Townsville Correctional Centre, Townsville Women's Correctional Centre and the Capricornia Correctional Centre near Rockhampton) are known to have very high proportions of Indigenous prisoners (QCS 2008). For example, the prisoner population of Lotus Glen is said to be 60–70 per cent Indigenous (see the Department of Community Safety website, <www.dcs.qld.gov.au>).

What is the level of reported crime in Queensland's Indigenous communities?

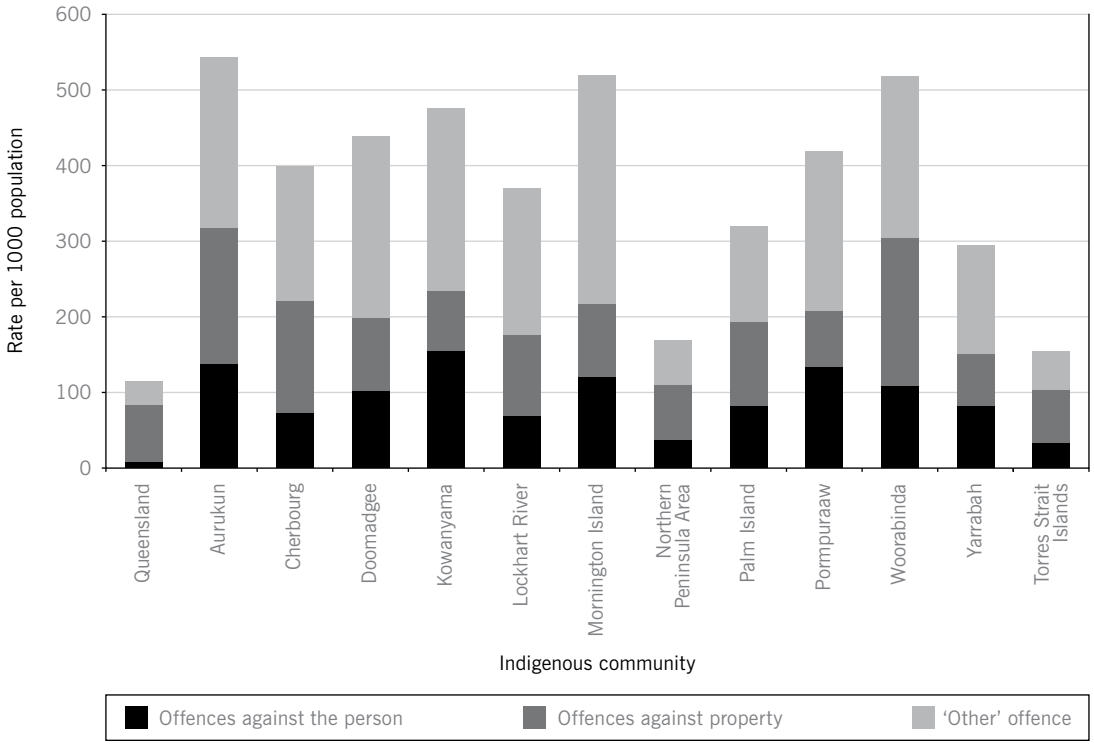
Queensland's Indigenous communities have very high rates of reported crime.[46]

Although the scale and extent of the problems are not uniform, Queensland's Indigenous communities generally have crime rates that are well above the state average.

46 We also examined QPS offence data for other Far North Queensland and Gulf communities for the five year period 2002–2006 and found that several locations with large Indigenous populations (Burketown, Normanton, Cloncurry, Coen and Laura) also had high rates of recorded crime, although generally not as high as those Indigenous communities within the scope of the inquiry. In contrast to those communities within our terms of reference, most of these other locations had low rates of property crime.

Figure 4.1 shows the average rates of reported crime (offences against the person, property offences and 'other' offences[47]) per 1000 population for Queensland's Indigenous communities and compares them with the rates for Queensland's overall population. The crime rates shown are an average of the rates calculated for each community, and for Queensland, between 1995 and 2006.

Figure 4.1: Average rates per 1000 population (1995–2006) of reported offences against the person and property and 'other' offences for Queensland and the Indigenous communities



Source: QPS crime report data, 2007.

Note: Disaggregated data at the community level cannot be presented for the relevant time period for all communities within our terms of reference. The data presented in Figure 4.1 are QPS divisional data for the QPS divisions of Aurukun, Bamaga (which also records the reported offences in the other NPA communities of Injinoo, Seisia, New Mapoon and Umagico, so that we present these data as 'Northern Peninsula Area'), Cherbourg, Doomadgee, Kowanyama, Lockhart River, Mornington Island, Palm Island, Pormpuraaw, Thursday Island (which for most of this period also records reported crimes for all the Torres Strait Islands, so that we present these data as 'Torres Strait Islands'), Woorabinda and Yarrabah. Data were not available for all the Indigenous communities included in the inquiry's terms of reference because in some cases the QPS divisional data also include reported crimes for non-Indigenous towns. The Aboriginal communities of Napranum and Old Mapoon are not included as reported offences are recorded in those locations within the broader QPS Weipa Division. Similarly, for Hope Vale and Wujal Wujal, data are not included in the average as these communities were until recently part of broader QPS divisions — Cooktown Division and Mossman Division respectively.

47 These three offence categories are based on the Australian National Classification of Offences (ANCO) prepared by the Australian Bureau of Statistics. They are the same as those used by the QPS and presented in their Annual Statistical Review (see QPS 2004, 2005a, 2006a, 2007a, 2008a). Offences against the person are homicide (murder), other homicide, assault, sexual offences, robbery, extortion, kidnapping, abduction and deprivation of liberty, and other offences against the person. Offences against property are unlawful entry, arson, other property damage, unlawful use of motor vehicle, other theft, fraud, and handling stolen goods. 'Other' offences are drug offences; prostitution offences; liquor (excluding drunkenness); gaming, racing and betting; breach of domestic violence protection orders; trespassing and vagrancy; *Weapons Act 1990* offences; good order offences; stock-related offences; traffic and related offences; and miscellaneous offences.

The data in Figure 4.1 show that:

- all these Indigenous communities demonstrate rates of offences against the person (that is, violent offences) and 'other' offences well above the state rate
- rates of property offences are not above the state rate in all of these Indigenous communities.

Figure 4.1 also shows that:

- The combined rates of offences (offences against the person, offences against property and 'other' offences) are highest for Aurukun, Mornington Island and Woorabinda.
- The rates of reported offences against the person are highest for Aurukun, Kowanyama, Mornington Island and Pormpuraaw, reaching rates up to 18.5 times higher than for Queensland overall. The Northern Peninsula Area (NPA) and the Torres Strait Islands have the lowest levels of reported offences against the person of all of these Indigenous communities, but they still demonstrate rates that are more than four times higher than for Queensland overall.
- The rates of property offences are highest in Aurukun, Cherbourg and Woorabinda (up to 2.5 times higher than for Queensland overall); yet some communities (the NPA, Yarrabah and the Torres Strait Islands) have lower rates of property crime than Queensland overall.
- 'Other' offence rates are highest in Mornington Island, Kowanyama and Doomadgee. On the other hand, the NPA and the Torres Strait Islands have relatively low levels of 'other' offences, only marginally higher than the Queensland rate.

Offence rates over time

It has been suggested that since the introduction of a regular supply of alcohol, in many places after the end of the mission era, there has been a 'rocketing upwards' of violent conflict, rape, child and Elder assault and neglect in Indigenous communities. For example:

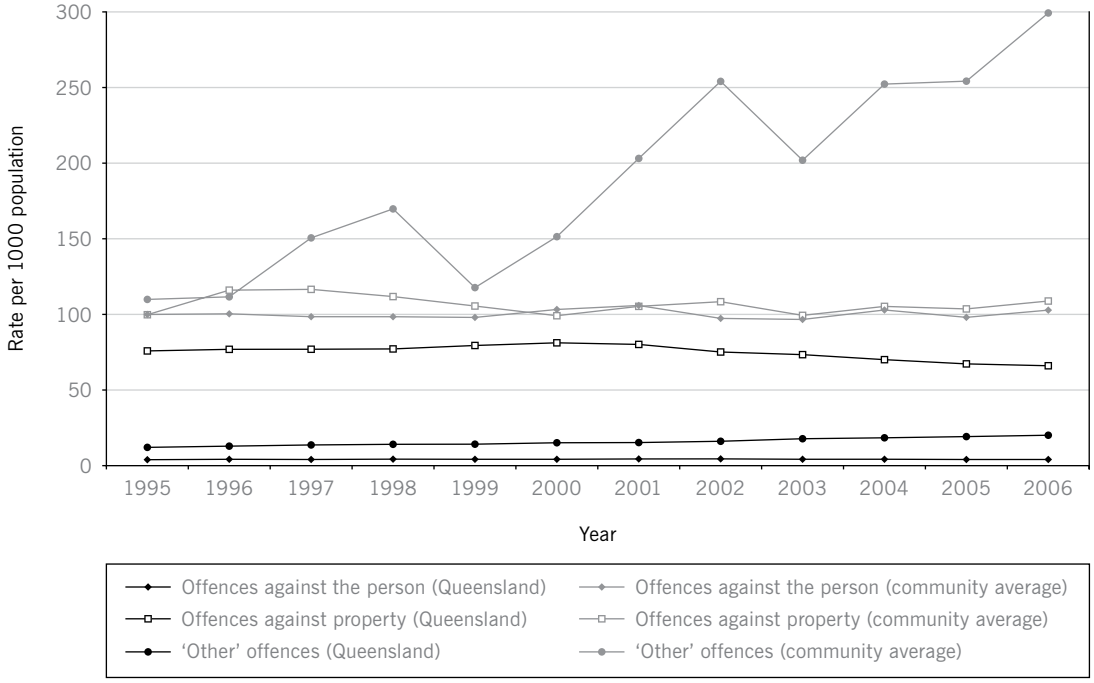
- McKnight (2002, p. 117) states that on Mornington Island during the 64 years of the mission (1914–78), apart from the murder of the Rev. Robert Hall, there was only one homicide (and general opinion was that the killing was an accident). Since the time of the canteen and the Shire, there have been 15 homicides. Suicides are said to have shown a similar increase (McKnight 2002, p.133).
- Pearson states that in the early 1970s not one Hope Vale Aborigine was in prison, but 30 years later there were a dozen who were either in prison or had narrowly escaped that fate. Murder was unknown in the Cape York of Pearson's childhood, but after the introduction of alcohol 'in one of our communities there were three murders within one month' (Pearson, cited in Manne 2007; see also Pearson 2001).
- Sutton (2009, p. 3) states that there was only one homicide and one suicide in Aurukun in the period from 1959 to the opening of the canteen in 1985, but that violence rapidly escalated and that most of the homicides have been alcohol related.

For this reason we hoped to consider data on offence rates in these communities over the long term, including before the introduction of a regular supply of alcohol. However, we were informed that there are difficulties in relying on QPS data before 1995, so this was not possible.

Reliable data is available from 1995. Figure 4.2 shows the annual average rates per 1000 population of reported offences against the person, offences against property and 'other' offences for Queensland and an average of most of the Indigenous communities included in our inquiry[48] over time (1995–2006).

48 Not all offence rates for the Indigenous communities included in the inquiry's terms of reference were available (see the notes to Figure 4.1 for further information).

Figure 4.2: Average Queensland and Indigenous community crime rates (offences against the person, offences against property and 'other' offences) over time (1995–2006)



Source: QPS crime report data, 2007. Note: The communities included in the Indigenous community average rate are those communities for which QPS divisional data are available, as explained for Figure 4.1.

Figure 4.2 shows that:

- Although there are annual fluctuations, the substantially higher rate of offending against the person in Queensland's Indigenous communities compared with Queensland, which was demonstrated in Figure 4.1, is consistent over time.
- The rates of property offences for all Indigenous communities combined, while consistently higher than for Queensland, have remained static over time, unlike the notable downturn in such offences across Queensland since 2001.
- 'Other' offence rates in Indigenous communities increased dramatically from 1999 onwards (despite a downturn in 2003); this pattern is not replicated across Queensland.[49]

Tables 1–3 in Appendix 4 provide the annual data presented in Figure 4.2 for Queensland and for each Indigenous community. These tables show that the annual fluctuations in offence rates are more marked at the community level. This may reflect the small numbers of offences at the individual community level, but other possible explanations are the incapacitation of key offenders, or different police tactics and priorities (such as may result from a change in officer-in-charge at the local station).

Figures 7, 8 and 9 in Appendix 4 again show the trends over time for the three offence types, but this time we have separated communities in the Torres Strait Islands from Aboriginal

49 Although it may not be readily apparent from Figure 4.2 (because of differences of scale and the fact that the Queensland-wide increase is not as dramatic as it has been in Queensland's Aboriginal communities), it should be noted that the statewide rates of 'other' offences have showed steady growth over time. These increases in 'other' offences across Queensland are driven by good order offences but also by an increase in drug and traffic offences (see QPS 2004, 2005a, 2006a, 2007a, 2008a).

communities.[50] These graphs highlight some notable differences between the communities in the Torres Strait Islands and Aboriginal communities, both in general and in terms of the patterns over time. Although crime rates in the Torres Strait Islands communities are generally high in comparison with the Queensland rates, they are lower than in Aboriginal communities.

No clear reduction in offence rates after the introduction of Alcohol Management Plans

We found no clear evidence that the introduction of AMPs has significantly affected the rates of any of the three offence categories (offences against the person, property offences and 'other' offences).

For example, in some communities the rate of offences against the person worsened after the introduction of AMP restrictions, but in others it improved:

- In Aurukun and Cherbourg, offences against the person decreased in the period before alcohol restrictions were introduced and increased in the period after introduction.
- In Woorabinda, rates of offences against the person continued to increase after alcohol restrictions were introduced, but then decreased.
- On Mornington Island, there was a substantial increase in offences against the person in the period immediately after the introduction of alcohol restrictions, followed by a decline.

See Table 1 in Appendix 4 for further details of these data.

These findings are consistent with the findings of an unpublished review of the alcohol restrictions conducted by the Queensland Government in 2008, which is said to have indicated 'mixed success with no significant improvement in any community but some reduction overall in the severity of serious assaults and in the number of people and degree of violence on the streets at night' (submission of the QPS, p. 10).

Similarly, in relation to 'other' offences, if we look at the data aggregated for all Indigenous communities the substantial increase in 'other' offences may suggest a link to the introduction of the AMPs from the early 2000s. Further, the data presented in Figure 9 in Appendix 4 show that in the Torres Strait Islands, where AMPs have not been introduced, no such increase occurred. However, several factors confound this picture.

First, the dramatic increase that Figure 9 in Appendix 4 shows in 'other' offences in Aboriginal communities begins from 1999, well before the introduction of any AMPs.

Second, at the individual community level there is no clear pattern in either the direction or the degree of change. In some communities the rate of 'other' offences remained the same (as at Lockhart River), fluctuated (as at Pormpuraaw) or even declined after the introduction of the AMPs (as at Doomadgee and Kowanyama). In other communities the rate of 'other' offences increased substantially after AMPs were introduced (as at Aurukun, Cherbourg, Mornington Island, the NPA and Woorabinda). See Table 3 in Appendix 4 for further details of these data.

50 As stated above, we have used QPS divisional data to determine the aggregated community averages. The 'Aboriginal community' average presented here is based on all Aboriginal communities for which data are available (as explained in the notes to Figure 4.1), but includes the data for the Bamaga QPS Division, which takes in all the NPA communities, including Seisia and Bamaga, which are predominantly Torres Strait Islander communities. (The Aboriginal communities within the NPA are Injinoo, Umagico and New Mapoon.)

Third, our further analysis of the QPS 'other' offence data at an individual community level revealed that the rates of good order offences (particularly public nuisance offences) were often the primary drivers of the changes noted — both the increases and the decreases in these offences — rather than changes in Liquor Act offences (which are mostly breaches of the AMP). See details presented in Table 4 in Appendix 4.

These findings could reflect factors such as these:

- actual changes in the behaviour of community members, based on real decreases or increases[51] in alcohol consumption
- changes in local policing activities that targeted inappropriate or alcohol-fuelled behaviour.

We do not have enough information to draw conclusions, but we assume that a multiplicity of scenarios would have developed, and this may explain the disparities seen between communities.

It should also be noted that we present data only until the end of 2006. As we have described in previous chapters, the Queensland Government has continued to introduce further alcohol reforms in Queensland's Indigenous communities (except for those in the Torres Strait Islands), aiming to make these communities 'as dry as possible'. Although it has been suggested that more recent data show that, since further reforms in late 2008, violent crime levels have decreased in some communities (cited in Koch 2009; see also Queensland Government 2009b), the evidence published in the Queensland Government's Quarterly Reports suggests that rates of hospital admissions for assault and violent offences continue to remain high and show no clear pattern of change since the introduction of AMPs (see Queensland Government 2008b, 2008c, 2008d, 2009a, 2009b; see also Chapter 9 for further discussion of the AMPs, including continuing issues regarding their enforceability).

It is also important to note that offence rates, especially for offences against the person, have fluctuated throughout most of the communities examined for this inquiry during the full ten years of QPS data available to us. This means that caution must be exercised before specifically linking changes in offence rates in any particular quarter to the success or failure of alcohol restrictions, rather longer term trends should be the focus of any such assessment.

We can conclude, however, that the relatively recent introduction of alcohol restrictions in response to the Cape York Justice Study has not brought about immediate or clear improvements in the rate of crime and violence in Queensland's Indigenous communities in which they were introduced. It is reasonable to expect that a substantial period of time is needed before the effectiveness of the alcohol reforms can be fully determined. It may also be that it is expecting too much of alcohol restrictions alone to substantially reduce crime and violence in these communities — although they may form part of the solution, in a mix of strategies.

Do the high reported crime rates reflect the true level of offending?

We have shown that recorded crime rates in Indigenous communities are typically well above the state average. Some commentators claim that these high levels are primarily a result of the nature and extent of policing in these communities — that is, that they reflect 'overpolicing'. This argument is most strongly made in relation to high levels of good order or public order offending by Indigenous people (see Chapter 8 for further description of the arguments about overpolicing).

51 For example, it was claimed during our consultations that the introduction of alcohol restrictions has caused some people in some communities to turn to 'home brew', which it was suggested may have a higher alcohol content than the drinks that may have previously been available. Also, the AMPs vary in their enforceability from location to location and over time (see the further discussion in Chapter 9).

It is our view that this is not the case; rather, we believe that the crime rates reflect a very 'real' high level of offending in these communities.

Offences against the person

We acknowledge that, for some types of recorded crime, the number of offences recorded may be influenced by many factors, such as police presence, priorities and tactics and the willingness of people to report offences. For example, recorded assaults and sexual offences, in particular, may not provide a very accurate measure of actual offending because they may be substantially influenced by a victim's willingness to report and their confidence in police and the criminal justice system. Assaults also present considerable evidentiary difficulties if the victim is not a willing complainant — such assaults may be charged as public order offences such as public nuisance (see CMC 2008).[52] [53]

There are other offence types and other indicators of crime, however, that are less susceptible to variations in police presence, priorities and tactics and in the willingness of people to report offences. For example, homicide and grievous bodily harm[54] provide a more reliable indicator of the real amount of violent offending. The consequences of such offences — death, life-endangering injury or serious disfigurement — are so severe that these offences are very likely to come to the attention of police. There is also little room for police discretion about whether the behaviour should be treated as a crime.

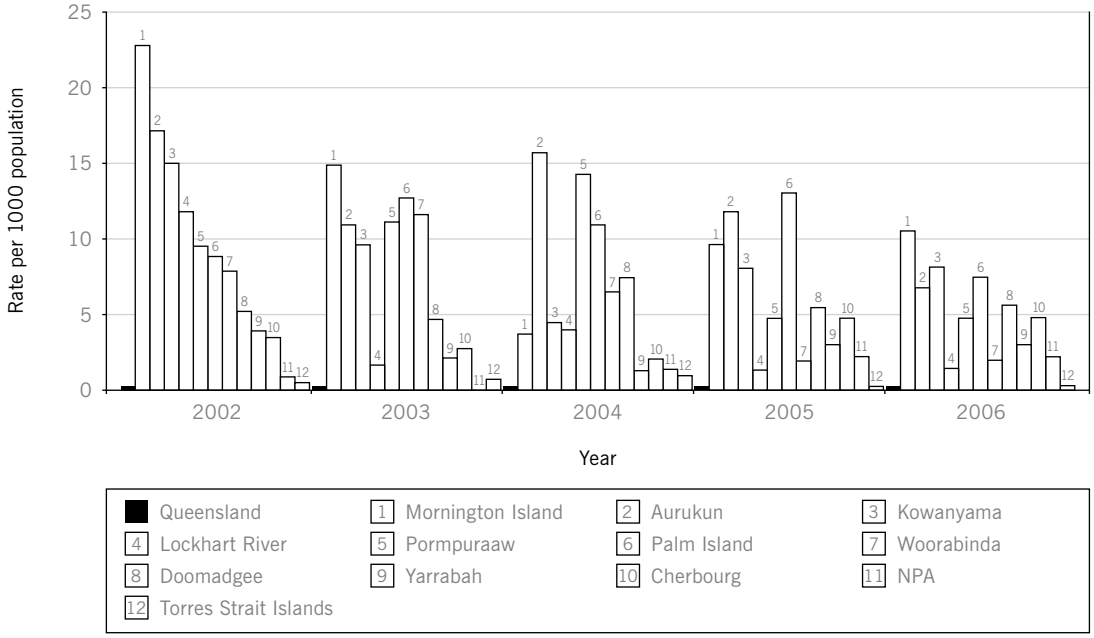
Crime report data for Queensland's Indigenous communities show that they have very high levels of these serious offences. Figure 4.3 shows the rates of homicide and grievous bodily harm per 1000 population for each year, 2002–2006, statewide and for each of the Indigenous communities considered by our inquiry.

52 In Indigenous communities where there are high levels of offending and contact with police, there may also be high levels of assaults on police, increasing the level of recorded assaults. We examined the impact of assaults on police on the level of recorded assaults in the Indigenous communities and found that in 2005 and 2006, on average across all Indigenous communities, 4.8% of all recorded assaults were assaults on police; this figure ranged from 1.8% in the Bamaga QPS Division to 8.8% at Woorabinda; the proportion for the Torres Strait Islands, where there is a permanent police presence on only two islands, was 1.6%. We have no Queensland-wide data as a comparison, but we believe that 5% of all assaults does not substantially 'inflate' the level of recorded assaults in the Indigenous communities. In contrast, it has been suggested in the past that the high proportion of successful prosecutions for assaults that were assault against a police officer in Cape York indicated 'problems regarding the exercise of police discretion in enforcing the law' (Fitzgerald 2001, p. 181).

53 In some Indigenous communities, assaults may also be charged as by-law offences and not recorded as QPS crime report data.

54 Section 1 of the *Criminal Code Act 1899* states that 'grievous bodily harm means — (a) the loss of a distinct part or organ of the body; or (b) serious disfigurement; or (c) any bodily injury of such a nature that, if left untreated, would endanger or be likely to endanger life, or cause or be likely to cause permanent injury to health …'.

Figure 4.3: Rate of homicide and grievous bodily harm per 1000 population, Queensland and the Indigenous communities, 2002–2006



Source: QPS crime report data, 2007.

See the notes to Figure 4.1 for an explanation of which communities are included in the data shown in this figure.

The rates of these crimes are about 18 times higher in Indigenous communities than across Queensland. They are highest in Mornington Island, where in 2002–2006, homicide and grievous bodily harm offences are on average 45 times higher than across Queensland, and lowest in the Torres Strait Islands, where these offences are only slightly — about 10 per cent — higher than across Queensland.[55]

Hospital admissions for assault also provide a measure of the level and seriousness of violent behaviour. The rate of hospital admissions for assault in Queensland's Indigenous communities is on average around 18 times higher than across the state; it is highest in Woorabinda, where the rate of hospital admissions is about 35 times higher than across Queensland, and lowest in Old Mapoon, where the rate of hospital admissions is about three times higher than the Queensland rate (Queensland Government 2008d; see also Queensland Government 2008b, 2008c, 2009a, 2009b).[56]

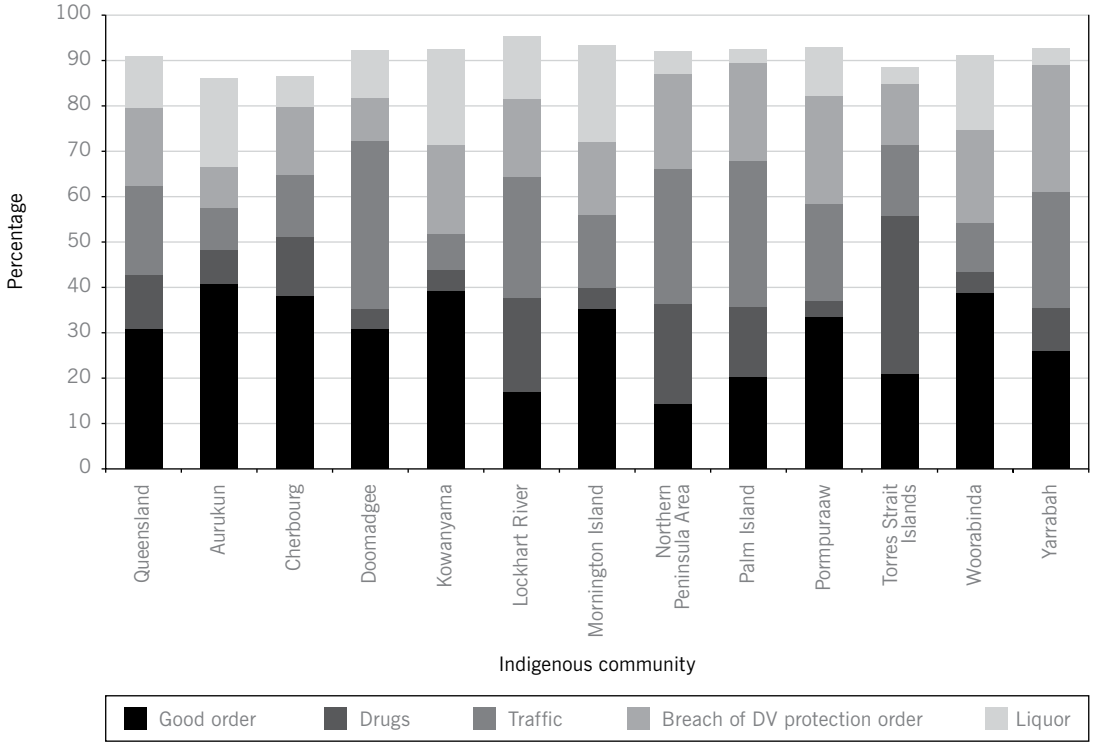
Public order offences

Because there is controversy associated with the policing of Indigenous people for public order (otherwise referred to as good order offences) we conducted further analyses of the 'other' offences data presented above. Figure 4.4 shows the percentage of the five most common 'other' offence types, for each community and aggregated for all communities, between 2002 and 2006.

55 In recent years the rates of homicide and grievous bodily harm in the Torres Strait Islands have ranged from around the state average up to almost four times the state rate (in 2004).

56 These data do not include the Torres Strait Islands, which are not included in the Queensland Government's Quarterly Reports.

Figure 4.4 Proportion of 'other' offences in the five most common offence categories: good order, drug offences, traffic, breach of domestic violence protection order and liquor offences (excluding drunkenness)[57] (2002–2006)



Source: QPS crime report data, 2007.

See the notes to Figure 4.1 for an explanation of which communities are included in the data shown in this figure.

Figure 4.4 shows that in Queensland's Indigenous communities the high rates of 'other' offences are often driven by a high proportion of 'good order'[58] offences:

- When all Indigenous communities were considered together, good order offences were the most common category of other offences, accounting for 30.8 per cent of offences.
- Six individual communities followed this same pattern, with good order offences representing the largest category of 'other' offences in Aurukun (40.8%), Cherbourg (38.2%), Kowanyama (39.2%), Mornington Island (35.3%), Pormpuraaw (33.6%) and Woorabinda (38.8%).

In the remaining six communities, however, good order offences were not the most common type of 'other' offence, and generally accounted for somewhat smaller proportions of 'other' offences:

- 30.8 per cent of 'other' offences in Doomadgee were good order offences, while traffic offences accounted for 36.9 per cent.
- 26.1 per cent of 'other' offences in Yarrabah were good order offences, while 28 per cent were breaches of domestic violence protection orders.

57 QPS crime report data does not include the offence of being drunk in a public place.

58 Information provided in QPS Crime Reporting Information System for Police (CRISP) states that the 'good order' category of offences includes the offences of public nuisance; resist arrest, incite, hinder or obstruct police; disobey move on direction; wilful exposure; stating a false name or address; public urination; and begging in a public place.

- Around 20 per cent of 'other' offences on Palm Island (20.4%) and in the Torres Strait Islands (20.9%) were good order offences. On Palm Island, both traffic offences (32.1%) and breaches of domestic violence protection orders (21.8%) accounted for a greater proportion of offences; in the Torres Strait Islands, drug offences accounted for the greatest proportion of 'other' offences (34.9%).
- Good order offences accounted for less than 20 per cent of other offences in both Lockhart River (17.0%) and the NPA (14.3%). Traffic offences (26.5% Lockhart River; 29.7% NPA), drug offences (20.8% Lockhart River; 22.1% NPA) and breaches of domestic violence protection orders (17.3% Lockhart River; 21.0% NPA) were all more common offences in both communities.

We have presented data above showing high rates of 'other' offences across all Indigenous communities (see Figure 4.1), with a proportion of these offences being good order offences (see Figure 4.4). Consistent with that data is that rates of good order offences in Queensland's Indigenous communities were almost 12 times higher than the state rate in 2006; the rate was highest in Aurukun, where it was 24 times higher than across Queensland, and lowest in the Torres Strait Islands, where it was only 1.2 times higher than across the state.[59]

There are two key points to be made about these findings.

First, the true rates of good order offending in Indigenous communities may be substantially under-reported in the QPS crime report data as the data do not capture similar behaviour charged under local 'law and order' by-laws, which are actively enforced in some communities.

To assess this potential we examined the Magistrates Court outcome data (excluding Childrens Court data) for Cherbourg, Kowanyama, Pormpuraaw, Woorabinda, and Badu Island in the Torres Strait to ascertain the extent to which local 'law and order' by-laws have been actively enforced by police and community police. A range of offences under the local 'law and order' by-laws may be used instead of 'good order' charges under the state criminal law (such as public nuisance under the *Summary Offences Act 2005*). These data show that, in some communities where 'law and order' by-laws are actively enforced, they may account for a substantial proportion of public-order-type matters (see Chapter 17 for further details). The QPS crime data presented above, therefore, may not reflect the true level of 'good order' offending and may be a significant underestimate of these kinds of offences in some communities, at least for some periods.

Second, there is evidence to suggest that, rather than high crime rates being the result of overpolicing of 'trivial' public disorder incidents such as offensive language, high levels of good order offences in crime report data may actually mask the true extent of violent offence behaviour to which police respond. For example, previous research conducted by the CMC (2008) into public nuisance[60] across Queensland found that public nuisance charges were most frequently used to deal with behaviour involving alcohol-related violence or threats of violence.

In an attempt to consider the nature of relatively minor public order incidents in Queensland's Indigenous communities, we examined by-law offence release notices attached to watch-house register records at Kowanyama and Pormpuraaw.[61] The Kowanyama notices included a police description of the alleged incident, but the Pormpuraaw notices did not.[62]

59 The majority of island communities in the Torres Strait have no permanent police presence, so good order offences recorded by police are likely to be low in those communities.

60 Public nuisance is one of the most common offences within the 'good order' category.

61 A 'Form 1 Release Notice' was attached to the watch-house custody register for most prisoners detained under a local by-law. The form appears to be in effect both a 'bail' and a 'notice to appear' form.

62 We do not know how many, if any, by-law offences did not result in a watch-house admission. Of the 72 admissions for by-law offences at Kowanyama in 2006 and 2007, there were 68 Release Notices in the registers.

The Kowanyama notices showed that, according to police:

- about two in three people arrested for a by-law offence had been behaving violently, usually 'fighting'
- most of the others had been abusive, threatening or arguing aggressively with others — usually community members, but also police
- three out of four incidents involved someone other than police being directly affected by the behaviour
- although about one in ten by-law offenders were detained only because they were intoxicated, almost all of those were reportedly very intoxicated and the police narratives typically suggested that they were at risk of harm
- police recorded breath analysis results for eight of the 68 by-law prisoners, and these values ranged from 0.146 per cent to 0.309 per cent
- in just under half the admissions at Kowanyama for by-law offences, police recorded that they had attempted some alternative resolution of the incident, typically a warning or request for the offender to stop the behaviour or to go home; in some cases they also tried to take the offender home but ended up arresting them.

Further evidence that many public-order-type offences relate to violent behaviour or threats of violence is provided by the following information obtained during consultations:

- An officer from Aurukun explained that police in that community often used public order charges, particularly the public nuisance offence, to deal with fights. He explained that public nuisance charges were often laid in circumstances where a charge of assault could be warranted, but that public nuisance was often preferred because it allowed police to effectively intervene and stop the behaviour with a minimum of evidentiary requirements (for example, public nuisance matters do not require a complainant).[63]
- Our discussions with a magistrate with extensive experience on the court circuit in remote communities confirmed the view that many good-order-type charges involved relatively serious violent behaviour.

We do not believe, therefore, that the distinction between 'minor', 'trivial' or 'harmless' offences (to which police are often said to overreact, or which are claimed to be a symptom of overpolicing) and 'serious offences' such as assault (for which police have been said to under-react) is as large or firm as previous reports may have suggested (Johnston 1991, vol. 2, pp. 194, 200–202; Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999, pp. 97, 220, 218 & 220).

The public order and by-law data from Queensland's Indigenous communities suggest that these offences may frequently be used to deal with relatively 'serious' violence and threats of violence. The *behaviour* that is policed as public order or by-law offences may often be the same *behaviour* that could lead to charges such as assault, grievous bodily harm and even homicide (the *outcomes* of such behaviour are obviously much more serious for these offences).

63 Police explained to us that Indigenous victims are often unwilling to press charges of assault and speculated that the reasons for this include obligations to, or family relationships with, the assailant, fear of reprisal or a desire that the assailant not go to prison.

Finally, we again must note that we have presented QPS crime report data regarding 'other' offences and good order offending only until the end of 2006. The government has taken steps since that time to increase the number of officers 'on the ground' in many communities. It is possible that since 2006 further reforms tightening alcohol restrictions, together with the increase in police numbers in many of these communities, may have substantially altered the patterns of policing that we have noted here (and increased the risk of overpolicing). For example, a recent report focusing on Mornington Island shows that since 2005–06 there have been sharp rises in the number of offenders sentenced in the Mornington Island Magistrates Court for public order offences in both 2006–07 and 2007–08. These increases are attributed to factors such as the ban on home brew and the closure of the community tavern in late January 2008 (Department of Justice and Attorney-General (JAG) 2009b).

Who are the offenders?

The QPS crime report data also provide information about the age, gender and Indigenous status of offenders, although Indigenous status has only been recorded since July 2003. We requested — and present here — offender and victim data for a two-year period in which this information was reliably recorded: 2004–05 and 2005–06.

As is to be expected, our examination of the data indicates that the vast majority of offenders in Queensland's Indigenous communities are Indigenous (95%, n = 17 588).

Figures 4.5, 4.6 and 4.7 show the proportions of offenders against the person and property and for 'other' offences who were males and females by age group for those years (2004–05 to 2005–06). Indigenous and all Queensland offenders are shown separately.

Figure 4.5: Proportion of offenders against the person within each age group who are males and females, Queensland and the Indigenous communities, 2004–2006

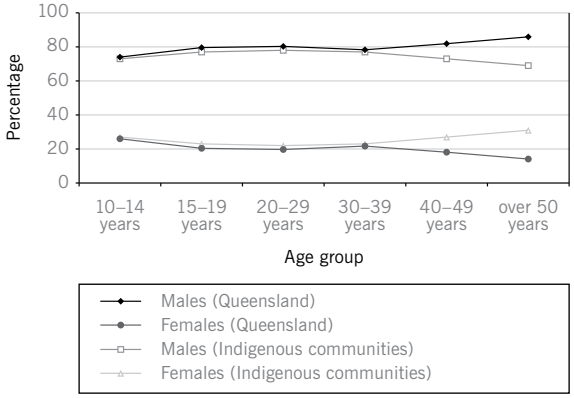


Figure 4.6: Proportion of offenders against property within each age group who are males and females, Queensland and the Indigenous communities, 2004–2006

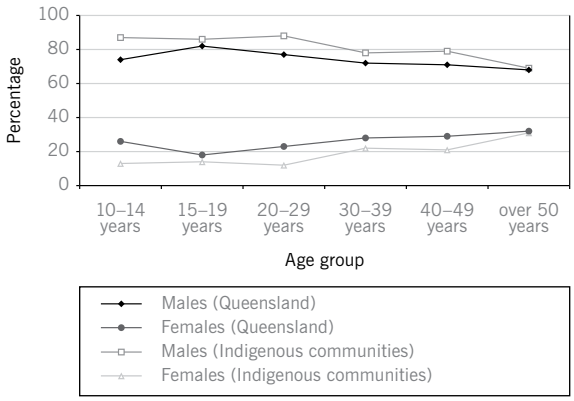


Figure 4.7: Proportion of 'other' offenders within each age group who are males and females, Queensland and the Indigenous communities, 2004–2006

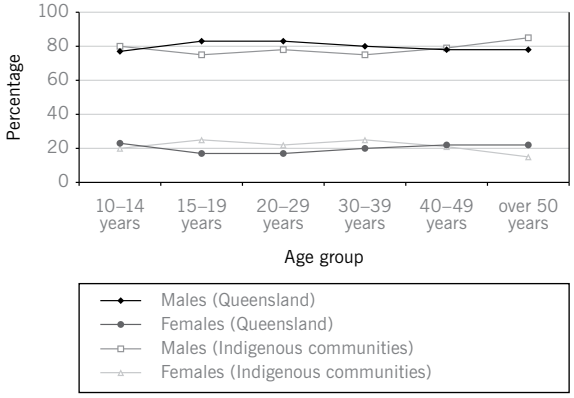


Figure 4.8: Offences against the person — age profile within gender, Queensland and the Indigenous communities, 2004–2006

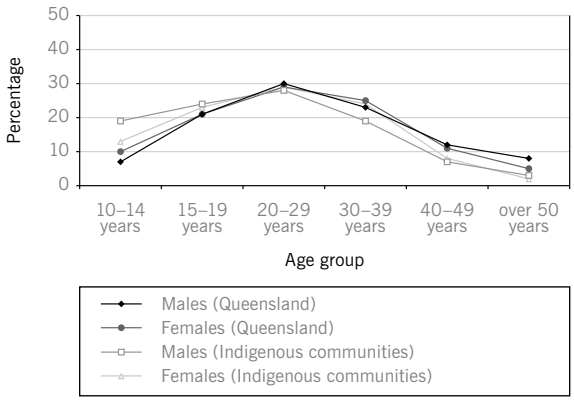


Figure 4.9: Offences against property — age profile within gender, Queensland and the Indigenous communities, 2004–2006

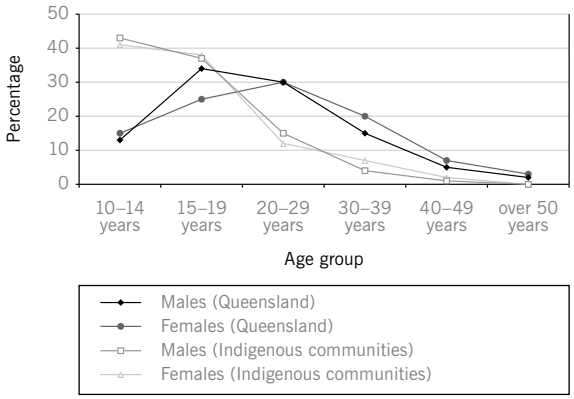
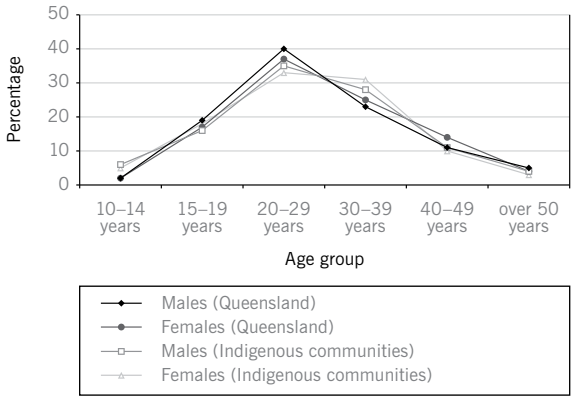


Figure 4.10: 'Other' offences — age profile within gender, Queensland and the Indigenous communities, 2004–2006



Source: QPS crime report data, 2007.

See the notes to Figure 4.1 for an explanation of which communities are included in the data shown in this figure.

As can be seen in Figures 4.5, 4.6 and 4.7:

- Within each age group, males are the predominant offenders (80%) both in Indigenous communities and across the state for offences against the person, offences against property and 'other' offences.
- Males in Indigenous communities commit a relatively high proportion of offences against property compared with males across the state; conversely, females across the state commit a relatively higher proportion of offences against property than do Indigenous females in Indigenous communities.
- The profiles of male and female offenders committing 'other' offences both in Indigenous communities and across the state are very similar.

Figures 4.8, 4.9 and 4.10 show the offender data in a different way. They show the age profiles of offenders within each gender for each type of offence.

As can be seen in Figures 4.8, 4.9 and 4.10:

- The overall age profiles of female offenders committing offences against the person are similar for those in Indigenous communities and across the state. On the other hand, the age profiles for males committing offences against the person are slightly different, with a higher proportion of offenders in Indigenous communities in the 10–14 year age group than across the state. However, most offences against the person, whether they occurred in Indigenous communities or not, were committed by people in the 20–39 year age groups.
- The age and gender profiles for offences against property differ quite noticeably. A much higher proportion of offenders in the Indigenous communities are aged 10–14 and 15–19 years, male and female alike, than statewide.[64] The overall age profile for property offences is also quite different from that for offences against the person and 'other' offences, with only a small proportion of property offences being committed by people older than 30.
- As with offences against the person, the age and gender profiles of offenders committing 'other' offences are similar in the Indigenous communities and across the state, with the largest proportions of offenders falling in the 20–39 year age groups.

We also examined these data for each community and found some notable differences in the patterns of male and female offenders. In particular, in comparison with other Queensland Indigenous communities:

- females accounted for a relatively large proportion of violent offenders in Kowanyama (35%, $n = 58$)
- in contrast to every other Indigenous community we examined, property offenders on Mornington Island were predominately female (54%, $n = 215$) rather than male
- females accounted for a larger than usual proportion of 'other' offenders at Pormpuraaw (41%, $n = 246$)

64 This age profile of offenders in Queensland's Indigenous communities (and the slight difference noted above regarding the higher proportion of offenders for offences against the person in Indigenous communities in the 10–14 year age group than across the state) may suggest that offenders in Queensland's Indigenous communities are more persistent than offenders generally in Queensland. Other research, including Queensland research, has demonstrated that early onset of criminal behaviour is often associated with persistent or chronic offending over time (Moffitt 1993; Livingston et al. 2008; Marshall 2006; Piquero 2008; see also Chen et al. 2005; Lynch, Buckman & Krenske 2003). The research on persistence also suggests that:

- although small in number, persistent offenders account for a large proportion of total offences (Moffitt 1993, Livingston et al. 2008; Marshall 2006)
- offenders characterised by an early offending onset, and a rate of offending that sharply increased up to age 16, are around twice as likely as others to have at least one finalised court appearance as an adult (Livingston et al. 2008)
- an earlier onset age is generally associated with a greater number of offences and a greater likelihood of a more serious offence having been committed (Marshall 2006).

- Lockhart River generally had the lowest proportions of female offenders (12% overall; 13% violent, *n* = 17; 6% property, *n* = 7; and 14% 'other', *n* = 53).

We also noted some differences by age.

For offences against the person:

- a relatively large proportion of offenders were aged 10–14 years in Aurukun (11%, *n* = 40) and Woorabinda (11%, *n* = 23)
- a relatively large proportion of offenders were aged 15–19 years at Lockhart River (43%, *n* = 55) and Woorabinda (38%, *n* = 81)
- a relatively large proportion of offenders in Woorabinda were juveniles (aged less than 17 years) (20%, *n* = 42); on the other hand, relatively small proportions were juveniles in Pormpuraaw (4%, *n* = 7) and Yarrabah (5%, *n* = 15).

For property offences:

- a relatively large proportion of offenders in Cherbourg (70%, *n* = 720) and Woorabinda (71%, *n* = 410) were aged 10–14 years
- a relatively small proportion of offenders in Kowanyama (15%, *n* = 24), the Torres Strait Islands (18%, *n* = 108) and Pormpuraaw (14%, *n* = 18) were aged 10–14 years.

For 'other' offences:

- a much larger than usual proportion of 'other' offenders in Cherbourg were aged 10–14 years (28%, *n* = 318)
- a larger than usual proportion of 'other' offenders in Pormpuraaw were aged 30–39 years (44%, *n* = 262).

However, it is important to note that these findings may reflect the different profiles of people in these communities (for example, some communities may have many more children than others, and some communities may have many more males than others) and that calculating rates per age group and per gender type would be a far more accurate measure of any true differences in offending between these communities.

Nevertheless, the numbers and proportions of offenders do provide useful information for those seeking to develop responses to the crime problems and patterns particular to individual communities. For example, it is clear that the communities of Aurukun, Cherbourg, Woorabinda and Lockhart River have a substantial problem with juvenile offenders and that this problem is particularly acute in relation to property offences.

Who are the victims?

QPS crime report data provide information about the age, sex and Indigenous status of victims of offences against the person.

As with the offenders, we found that most victims of offences against the person in the communities (81%) were Indigenous,[65] and that most were female (65%). Statewide, females only account for about 48 per cent of victims (see QPS 2005a, p. 63; QPS 2006a, p. 63; QPS 2007a, p. 63).

Figures 4.11 and 4.12 show the gender, age and location (Indigenous community or statewide) of the victims of offences against the person. Figure 4.11 reflects the same kind of data shown for offenders in Figure 4.5; Figure 4.12 reflects the same kind of data shown for offenders in Figure 4.8.

65 The Indigenous status of two victims (one male and one female) was not stated.

Figure 4.11: Proportion of victims of offences against the person within each age group who are males and females, Queensland and the Indigenous communities, 2004–2006

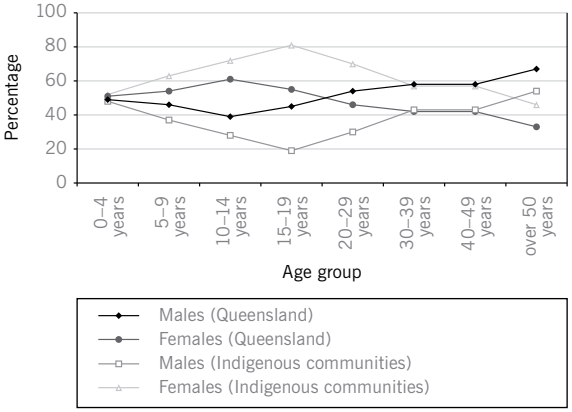
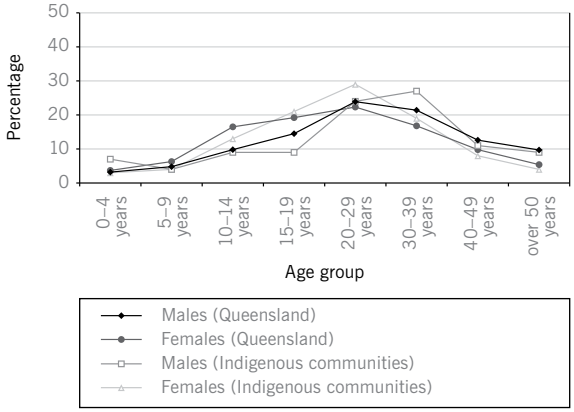


Figure 4.12: Victims of offences against the person — age profile within gender, Queensland and the Indigenous communities, 2004–2006



Source: QPS crime report data, 2007.

See the notes to Figure 4.1 for an explanation of which communities are included in the data shown in this figure.

Figures 4.11 and 4.12 show that:

- As a proportion of all offences against the person, victims are most likely to be younger females and older males both in the Indigenous communities and across the state. However, this profile is far more extreme in the Indigenous communities than statewide; in these communities females are, proportionately, much more likely to be the victims of these offences than males (see Figure 4.11).
- The age profiles of victims of offences against the person for both males and females and either in the Indigenous communities or statewide are similar — the risk of victimisation increases from birth, reaches a pinnacle between 20 and 30 years (a little later for Indigenous males), and thereafter decreases (Figure 4.12).

We also examined these data for each community and again found some notable differences in the patterns of male and female victims. In particular, in comparison with other Queensland Indigenous communities:

- Mornington Island had a relatively large proportion of non-Indigenous victims (32%, *n* = 110), while Yarrabah had a relatively small proportion of non-Indigenous victims (5%, *n* = 26)
- children 4 years or younger accounted for a relatively large proportion of victims in Doomadgee (10%, *n* = 32) and Mornington Island (11%, *n* = 37)
- a relatively large proportion of victims were aged 15–19 at Lockhart River (35%, *n* = 66).[66]

Patterns of repeat and widespread offending

There is some evidence that offending in Queensland's Indigenous communities is widespread, and that offenders in these communities represent a substantial proportion of the community's total population. There is also strong evidence that offenders in Queensland's Indigenous communities are repeat offenders.

66 Again, however, it is important to note that these findings may simply reflect the different profiles of people in these communities (for example, some communities may have many more children than others, and some communities may have many more males than others) and that calculating rates per age group and per gender type would be a far more accurate measure of any true differences in offending between these communities.

Our analysis of the QPS watch-house custody data from four Western Cape York communities[67] shows that in some communities there is both a high proportion of repeat offenders and also widespread offending. For example, during the two-year period of 2006 and 2007:

- In Aurukun:
  - there were 1095 admissions to the watch house after arrest[68], involving 460 unique offenders[69]
  - the total population of Aurukun is about 1043, so 44 per cent of individuals in the community had been admitted to the watch-house after arrest
  - 233 (51%) of the unique offenders were admitted to the watch-house more than once after being arrested; the highest number of admissions was a juvenile individual admitted 16 times.[70]
- In Kowanyama:
  - there were 469 admissions to the watch-house after arrest, involving 265 unique offenders
  - the total population of Kowanyama is about 1021, so 26 per cent of individuals in the community had been admitted to the watch-house after arrest
  - 104 (22%) of the unique offenders were admitted to the watch-house more than once after arrest; the highest number of admissions was an adult individual admitted 10 times.
- In Pormpuraaw:
  - there were 260 admissions to the watch-house after arrest, involving 141 unique individuals
  - the total population of Pormpuraaw is about 600, so 24 per cent of the individuals in the community had been admitted to the watch-house after arrest
  - 65 (46%) of the unique offenders were admitted to the watch-house more than once after arrest; the highest was an adult individual admitted to the watch-house eight times.
- In Weipa:
  - there were 476 adult admissions to the watch-house after arrest, involving 328 unique individuals
  - we cannot provide an accurate calculation of the proportion of the population this represents as Weipa watch-house services the Indigenous communities of Napranum and Old Mapoon, as well as the township of Weipa
  - 78 (24%) of the unique offenders were admitted to the watch-house more than once after arrest; the highest was a juvenile individual admitted to the watchhouse 10 times.

Although larger watch-houses in Queensland have a far greater number of admissions than those in Queensland's Indigenous communities (the Brisbane City Watch-house averages well over 2000 admissions per month),[71] the total number of unique individuals admitted to these watch-houses would be only a small fraction of the total population of the area serviced by

67 Further information from the watch-house data is included in Chapter 13.

68 We only included admissions to the watch-house after arrest in these counts so as to avoid inflating the counts with admissions from those passing through the watch-house for other reasons such as those admitted while in transit between court and other locations (remanded or sentenced prisoners) or those admitted to custody for questioning in relation to offences under investigation.

69 A 'unique offender' count is one that counts individuals (the same individual appearing multiple times in the data is counted only once). Usually offender statistics do not count individuals (the same individual will be counted multiple times where they appear in the data on multiple occasions). Unless it is explicitly stated to be otherwise, offender counts throughout this report are not unique offender counts.

70 The Aurukun rape case occurred during the period of this inquiry. That the criminal histories indicated a pattern of persistent offending for the nine offenders involved was noted in the Court of Appeal. We noted that, in the watch-house data for Aurukun for the two-year period, each of the offenders in this case was admitted multiple times, ranging from 3 to 11 times (*R v. KU & ors; ex parte A-G (Qld)* [2008] QCA 154).

71 Source: QPS presentation to the Australian Winter School conference, 2006. No data on the Indigenous status of watch-house prisoners were included in this information.

these watch-houses. This profile is quite different from the one described above, where substantial proportions of community residents appear in the watch-houses, often multiple times, within relatively short periods of time.

When identifying unique individuals among the watch-house admissions, we noted instances of three generations of males from the same family or extended family being admitted in the two-year period.[72] This appeared to confirm the claim of community members that the 'same families' are often involved in criminal and antisocial behaviour. It was also apparent from the watch-house registers (and our — admittedly limited — knowledge of the communities) that other families in the communities either rarely or never had family members detained by police during the two-year period.[73]

These data tend to suggest that in Queensland's Indigenous communities:

- a substantial proportion of individuals within each community may be involved in offending
- repeat offending is common.

This evidence is consistent with information provided to us during our consultations in the communities, where great frustration was expressed by both police and community representatives with the high levels of repeat offending, particularly by some families and especially by children. It is also consistent with information provided in the consultations that it is often the same children involved in property offending who then graduate to offences against the person when they later access alcohol.

These findings are also consistent with other studies that have shown that Indigenous offenders tend to have higher rates of recidivism or be more persistent than non-Indigenous offenders. For example:

- An Australia-wide AIC study involving male offenders incarcerated for violence offences showed that:
  - 74 per cent of Indigenous prisoners had previously served an adult prison sentence, compared with less than half (47%) of non-Indigenous prisoners
  - Indigenous offenders are re-admitted to prison sooner and more frequently than non-Indigenous offenders; Indigenous prisoners were nearly twice as likely to have been re-admitted to prison within two years and more than twice as likely to return to prison for assault (Willis 2008).
- A Queensland study shows chronic offending trajectories to be more common among Indigenous juvenile offenders than among non-Indigenous juvenile offenders. Just under a quarter (24%, n = 249) of Indigenous offenders were classified as chronic, compared with 7 per cent (n = 240) of non-Indigenous offenders and 11 per cent of the total sample (Livingston et al. 2008).[74]
- Another trajectory-based study conducted in South Australia (Marshall 2006)[75] showed that around 17 per cent of Indigenous juvenile offenders were classified as chronic offenders, compared with about 2 per cent of non-Indigenous juvenile offenders:
  - 10 per cent of Indigenous juveniles were classified in the *High* frequency offender group. On average, offenders in this group began offending at 14 years of age and were apprehended as juveniles on 15 occasions by police.

72 It cannot be assumed that people within Indigenous communities with the same Indigenous language surname are members of the same immediate family, because the name may be common to a clan or other traditional grouping.

73 Such a pattern is not, however, unique to Indigenous communities (see Farrington et al. 2001, 2006).

74 The study involved 4470 Queenslanders born in 1983 and 1984 who had at least one finalised court appearance as a juvenile. Offending data over a six-year period (from 10 to 16 years of age) were examined for these juvenile offenders; information on the adult offending of these individuals was also recorded up to the age of 19 or 20 years.

75 This study examined the offending records of 3344 people who were born in 1984 and had been apprehended by police at least once between the ages of 10 and 17.

– 7 per cent of Indigenous juveniles were classified in the *Very High* frequency offender group. On average, offenders in this group began offending at just 11 years of age — the earliest onset for any of the five groups — and were apprehended as juveniles on 33 occasions by police.

How do the high rates of crime and violence affect such small communities?

Although it is one thing to agree that there is evidence of high rates of reported crime in Queensland's Indigenous communities, especially in relation to violent offences, it is quite another to understand the effects of such high levels of crime and violence in such small communities of people in close relationships. The accompanying text box illustrates this for the community of Aurukun.

The lived reality of high rates of crime and violence in Aurukun

Peter Sutton, an anthropologist who has had extensive dealings with Aurukun and the Wik people of Western Cape York from the 1970s, provides the following portrait of the impact of violence in his recent book (Sutton 2009, p. 2). He states:

> The cemetery at Aurukun reminds me of the Australian war graves at Villers-Bretonneux in France … Painted crosses, many of them fresh, stretch away seemingly for hundreds of metres … In my time with the Wik people up to 2001, out of a population of less than 1000, eight people known to me had died by their own hand, two of them women, six of them men. Five of them were young people. From the same community in the same period, thirteen people known to me had been the victims of homicide, eight of them women, five of them men. Twelve others had committed homicide, nine of them men and three of them women. Most of these also were young people, and most of the homicides occurred in the home settlement of both the assailant and the victim. Of the eight spousal murders in this list, seven involved a man killing his female partner, only one a woman killing her husband. In almost all cases, assailants and victims were relatives whose families had been linked together for generations.

Because of the strength of his association with the Wik people, Sutton has been 'adopted' into Wik society as a son to Victor Wolmby and he therefore has family relationships within the Wik kinship system. The following account of the deaths of some of his Wik relations is a powerful illustration of the scale of the trauma and loss suffered within Wik families:

> The man knifed to death by his wife, reportedly in front of their children, was Winnie and Alan Wolmby's son … [and therefore a son also to me]. I had watched him fondly as he grew from a raw, Bible-reading teenager in the 1970s … into an adult of confident intelligence, then a father, and a man seemingly destined for some kind of local eminence. He was killed at the age of forty in 1998.
>
> The most wrenching suicide was … Ursula Yunkaporta, my 'full' niece ... in the 1970s she had been one of a number of lively, sassy, school-age kids. In the 1990s she presented at Aurukun Hospital scores of times over a two-year period of heavy drinking, repeatedly bashed by her boyfriend and others with whom she also fought. She was treated for being savaged by dogs at night, and was twice examined after giving details of how she was pack-raped by local boys. In the end she took her life by hanging, at twenty-seven, also in 1998.
>
> In the same year, Norma Chevathun, articulate, well educated, internationally travelled, a community representative in legal meetings in Brisbane and Canberra, was beaten to death at Aurukun, aged forty-one, by her boyfriend Yellowpipe. This one I called sister. These deaths were the toll only for April–June 1998.

Summary and conclusions: a large, entrenched and widespread crime problem

Using various sources of data, we have shown in this chapter that:

- Indigenous offenders account for relatively high proportions of police actions[76] against offenders statewide (11–35%), even though Indigenous people make up only about 3.5 per cent of the state's population
- the rates of crime in all of Queensland's Indigenous communities are much higher than the state average; this is especially true for offences against the person and for 'other' offences
- there is no Indigenous community that does not have a substantial violence problem
- Aurukun, Mornington Island and Woorabinda have the highest level of offending; the Torres Strait Islands have the lowest level, yet this is still substantially higher than statewide rates
- high rates of offending in Indigenous communities have been consistent over time
- there has been no clear reduction in offence rates following the introduction of the AMPs.

Our analysis shows that there are indeed high levels of offending in these Indigenous communities; that reported crime in these communities may be in many ways an underestimate of the true level of crime (given that our examination of the by-law data suggested that in some communities many offences may not be counted in the QPS crime report data); and that they do not reflect a general pattern of 'overpolicing'. We have shown very high rates of serious offences such as homicide and grievous bodily harm in these communities and we argue that such offences are unlikely to be affected by police discretion or targeted police activities.

We also presented evidence that in Indigenous communities:

- Most offences against the person are committed by males (80%); this is consistent with statewide data.
- Most victims of offences against the person are females, especially young females; this appears to be more extreme in the Indigenous communities than across the state.
- A particularly high proportion of offences against property are committed by juveniles, especially within the 10–14 year age group — this is a substantially different profile from that shown for such offences across the state.
- A substantial proportion of offenders in Indigenous communities are repeat offenders. For example, our analysis of QPS watch-house data shows that a substantial proportion of unique offenders were admitted to the watch-house more than once in the two-year period in each of the four watch-houses reviewed. These results are consistent with what we heard during consultations and other research. The watch-house data also provided evidence that offending is widespread in these communities; the number of unique offenders admitted to the watch-house represents about a quarter of the individuals in the communities of Pormpuraaw and Kowanyama, and about 44 per cent of the individuals in the community of Aurukun.

The effect of such high rates of crime on small communities such as these is extraordinary; doubtless it exacts a traumatic toll on all families and individuals within them.

If we are to understand how to deal with the large, serious, entrenched and widespread crime problem in Queensland's Indigenous communities, we must understand also the underlying causes of crime. Chapter 5 considers what is known through evidence about the risk factors and protective factors associated with crime, including evidence that relates in particular to Indigenous crime.

76 Police actions comprise arrests, cautions, community conferencing, notices to appear, summonses, warrants and other actions.

5

THE UNDERLYING CAUSES OF CRIME

Developing any response to policing problems and the patterns of crime we see in Queensland's Indigenous communities requires understanding of the underlying causes of crime. There is now a great deal of good-quality research — including Australian research, some of which relates to Indigenous people in particular — that can inform us about the causes of crime.

The causes of crime and violence are complex. What we provide here is only a very brief summary of some of the most relevant research within a vast body of work in this area.

Risk and protective factors

An important focus of criminological research over a lengthy period has been the identification of early risk factors for delinquency and later criminal offending. To a more limited extent, research now also provides knowledge of protective factors that work against offending.

Immutable factors such as age, gender and Aboriginality can, of course, be described as risk factors for crime. Offending is generally associated with the young and males are also more likely to be offenders than females. (In Chapter 4 we have already seen evidence about the age, gender and Aboriginality of offenders in relation to crime patterns in Queensland's Indigenous communities.)

One influence on crime trends in Queensland's Indigenous communities may be the age structure of the population. As we described in Chapter 3, these communities have a larger proportion of people in the crime-prone age range — that is, from about 15 to 24 years. The evidence also suggests that this proportion will grow in the future as a large proportion of the Indigenous population in Queensland's Indigenous communities is aged under 15 years (37%) (ABS 2004, 2007b, 2008b).

The age structure of the population in Indigenous communities is of course a factor over which the criminal justice system and governments have little or no control. However, crime prevention in Queensland's Indigenous communities must be approached with this in mind (see Chapters 15 and 16 for further discussion of crime prevention).

There are proximate[77] risk factors that predict involvement in crime. For example:

- There are a number of lines of evidence that demonstrate a relationship between alcohol consumption and risk of criminal violence. Specifically, behavioural experiments show that alcohol consumption increases aggression, 'heavy' drinkers report committing more violent offences than 'light' or non-drinkers, high rates of alcohol use in an area are correlated with high rates of physical violence, and incidents of violence are frequently concentrated around licensed premises (Weatherburn 2004, p. 67). There is empirical research that links alcohol abuse to violent behaviour in Indigenous and non-Indigenous populations (Hunter 2001; Snowball & Weatherburn 2008; Weatherburn, Snowball & Hunter 2006). Recently published data show that across Australia 70 per cent of Indigenous homicides over the period 1999–2000 to 2006–07 involved both the offender and the victim having consumed alcohol, compared with 23 per cent of non-Indigenous homicides (SCRGSP 2009, p. 10.20).

77 Proximate factors are those that immediately precede criminal behaviour. In contrast, distal causes of crime are those that are more remote (though not necessarily less influential or important) (Weatherburn 2004, p. 54).

- The number of criminal opportunities and/or incentives in any given neighbourhood is also likely to exert an influence on crime (see, for example, the theories of Cohen & Felson 1979; Cornish & Clarke 1986). That is, crimes may occur more frequently in those areas where there are many opportunities and incentives for people to commit them — for example, lax physical security, lax personal security, high levels of alcohol consumption, open illicit drug markets, attractive commercial or residential targets, and easy opportunities for selling or disposing of stolen goods (Weatherburn 2004, p. 70).

Finally, there are also a large number of what can be generally described as 'developmental' risk and protective factors that predict involvement in crime. A recent review of high-quality research[78] by Farrington and Welsh (2007, p. 159) summarises the risk and protective factors found at the individual, family and environmental level:

> Among the most important individual factors that predict offending are low intelligence and attainment, personality and temperament, empathy and impulsiveness. Just as low intelligence is a risk factor for offending, it has been suggested that high intelligence might be a protective factor.
>
> The strongest family factor that predicts offending is usually criminal or antisocial parents. Other quite strong and replicable family factors that predict offending are large family size, poor parental supervision, parental conflict, and disrupted families. One of the best family protective factors is good parental supervision.
>
> At the environmental level, the strongest factors that predict offending are growing up in a low socioeconomic status household, association with delinquent friends, attending high-delinquency-rate schools, and living in deprived areas...One of the best environmental protective factors is high academic focus in schools (e.g., emphasizing homework, academic classes, and task orientation).

Weatherburn (2004, pp. 60–1) adds details of some differences that can be identified between transient and persistent offenders[79] in terms of risk factors:

> Persistent offenders tend to have a lower IQ, more often come from family where parenting has been very poor, more often perform poorly in primary school, are more often rated as troublesome by their teachers, often have significant mental health problems, are more likely to have come from low income families and more often have a sibling who has been convicted of a criminal offence. Their involvement in crime is a reflection of a general pattern of anti-social conduct rather than just a response to some passing criminal opportunity. Transient offending, by contrast, generally appears as a result of association with delinquent peers in adolescence and does appear to be much more opportunistic in character.

As might be expected, research also shows that those with multiple risk factors are more likely to become involved in crime than those with just one risk factor. Also, a single risk factor may predict or cause multiple outcomes; risk factors for involvement in crime have close links also with other important lifecourse outcomes, such as in education, health and employment (see Zubrick et al. 2005). The corollary of this is also true, that successful interventions tend to produce benefits across various outcomes such as crime, health, education and employment (see Chapters 15 and 16 for further discussion of crime prevention).

Many researchers caution against too much reliance on reducing the causes of crime to a list of risk factors, as this process tends to obscure the fact that complex processes and interrelationships, or causal pathways, underlie the statistical relationships between involvement in crime and risk and protective factors (see France & Homel 2007; Homel, Lincoln & Herd 1999). For example, there is research that shows that, although poverty is associated with

78 That is, for risk (and protective) factors, prospective longitudinal studies (Farrington & Welsh 2007, pp. 6, 9–13).

79 Transient offenders are those offenders who commit crimes only through adolescence. For this reason, they are often referred to as *adolescent-limited offenders*. Persistent offenders, on the other hand, are those who continue to offend throughout all stages of their life. They are therefore often referred to as *life-course-persistent offenders* (Moffitt 1993).

crime, the means of its influence are indirect. That is, research shows that parents exposed to economic stress are more likely to neglect their children, poorly supervise them or engage in harsh, inconsistent or erratic discipline, and it is these parental behaviours that increase the risk of juvenile involvement in crime (see Weatherburn 2004, pp. 65–6).

There can also be a cyclical relationship between risk factors and involvement in crime. For example, poor parenting is a well-known and influential risk factor; empirical evidence presented by the Western Australian Aboriginal Child Health Survey shows that, where a child's primary carer, or primary carer's partner, has been arrested or charged with an offence, there is an elevated risk of poor family functioning compared with families where neither family member had been arrested (Silburn et al. 2006).

Of course, risk factors also may be different for different types of offenders, for different criminal pathways, or for different types of neighbourhoods (Farrington & Welsh 2007, p. 21). There is research that suggests that the nature, meaning and impact over the lifecourse of risk and protective factors for Indigenous people may be quite different from those for the mainstream (Homel, Lincoln & Herd 1999). These researchers identified important Indigenous risk factors, including forced removals, dependence on government, institutionalised racism and cultural features, while Indigenous protective factors were said to include cultural resilience.

Some have argued that aspects of Aboriginal tradition and culture may also contribute to the patterns of offending in Queensland's Indigenous communities. For example, Dr David Martin, an anthropologist with much experience in working with Wik and Wik Way peoples of Western Cape York, suggests that tradition and culture at Aurukun may provide a high level of acceptance of violence as an appropriate means of resolving disputes and that such values may need to be confronted if violence is to be substantially reduced (Martin 2008; see also Atkinson 1994, 1996; Homel, Lincoln & Herd 1999; Langton 1988; Sutton 2009). However, Snowball and Weatherburn's (2008) empirical research on predictors of Indigenous violent victimisation found little supporting evidence for cultural theories of Indigenous violence.[80]

Professor Fiona Stanley's (2008) empirical research has identified specific pathways to crime common in Indigenous communities that commence in pregnancy:

- maternal exposure in pregnancy to alcohol > irreversible brain damage > behavioural problems/mental retardation > poor school performance > delinquency/precocious sexual behaviour > substance abuse > incarceration, suicide, etc.
- poor maternal health/overcrowding/maternal smoking > repeated ear infections > deafness > poor language skills > poor school performance > behaviour problems > delinquency, incarceration, suicide, etc.

Stanley argues, however, that forced removal of Aboriginal people is 'the single most important antecedent factor in the many causal pathways into today's poor outcomes' (Stanley 2008, p. 11). The *Bringing them home* report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families powerfully illustrates the intergenerational effects of removal policies that denied many Indigenous Australians the experience of being parented or at least cared for by a person to whom they were attached. The report concludes that it is the very experience denied by removals that people rely on to become effective and successful parents themselves (HREOC 1997, p. 222).

Both the National Aboriginal and Torres Strait Islander Society Survey and the Western Australian Aboriginal Child Health Survey provide empirical data on the nature and extent of intergenerational effects caused by policies of forced separations of Indigenous people from

80 Snowball and Weatherburn found that any correlations between violent victimisation and cultural factors, such as living in traditional homelands, living in a remote area or identifying with a clan group, disappeared in the presence of controls for other factors (2008, p. 231).

their natural family. Both studies demonstrate a link between forced separation and a range of adverse life outcomes, including the likelihood of involvement in the criminal justice system (see also Atkinson 2002).[81]

A small number of other studies have attempted to empirically examine Indigenous correlates of arrest or violence using the results of the National Aboriginal and Torres Strait Islander Society Survey (Al-Yaman, Van Doeland & Wallis 2006; Hunter 2001; Snowball & Weatherburn 2008; Weatherburn, Snowball & Hunter 2008). Though each of these studies has limitations, the more recent research of Snowball and Weatherburn (2008) and Weatherburn, Snowball and Hunter (2008), which identify predictors of Indigenous violent victimisation and arrest, respectively, should be considered the most reliable because of their methodological approach.[82]

Snowball and Weatherburn (2008, p. 232) show that high-risk alcohol consumption was the strongest predictor of violent victimisation and that it remains so in the presence of controls for a range of other factors (odds ratio: 2.23).[83] This study provides support for those who suggest that the problems with alcohol in these communities should not be characterised as 'merely a symptom of other (deeper) problems, such as poverty and unemployment' (see, for example, Pearson 2001).

Factors such as the respondent's level of education, the number of children or other dependants in the household and whether the household was crowded had no predictive value. In addition to high-risk alcohol consumption, the study shows that the following factors did exert significant effects as predictors of Indigenous violent victimisation:

- social stress (odds ratio: 1.94)[84]
- being a member of the 'stolen generation' (odds ratio: 1.71)
- having been first charged with a criminal offence as a child (odds ratio: 1.69)
- financial stress (odds ratio: 1.69)
- residing in an area with neighbourhood problems (odds ratio: 1.61)
- substance abuse (odds ratio: 1.49)

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81 For example, the Western Australian Aboriginal Child Health Survey shows a range of negative social and emotional wellbeing outcomes for those removed, including that primary carers who had been forcibly separated from their natural family by a mission, the government or welfare were almost twice as likely to have been arrested or charged with an offence (Zubrick et al. 2005, p. 470). The children of those primary carers who had been removed also showed negative social and emotional outcomes, including:

- being more than twice as likely to be at high risk of clinically significant emotional and behavioural difficulties
- being more likely to have clinically significant emotional symptoms, conduct problems and hyperactivity
- having levels of drug and alcohol abuse almost twice as high as children whose Aboriginal primary carer had not been forcibly separated from their natural family (Zubrick et al. 2005, p. 465).

82 The authors of both describe their own studies as 'exploratory'. For example Snowball and Weatherburn (2008, p. 232) state that, given its nature and limits, it would be imprudent to draw strong policy conclusions from its findings. For example, some of the key constructs the researchers explored lacked strong measures and were open to various interpretations. Also, the data source the researchers used was not intended to measure these constructs in a valid and reliable manner.

83 The odds ratio is one of a range of statistics used to assess the risk of a particular outcome if a certain factor is present. The odds ratio is a relative measure of risk, telling us how much more likely it is that someone who is exposed to the factor under study will develop the outcome as compared with someone who is not exposed. The greater the size of the odds ratio, the greater the magnitude of the association between a possible predictor, or risk factor (for example, Indigenous status), and an outcome (for example, being a public nuisance offender). The closer the odds ratio is to 1, the smaller the association; the larger the odds ratio, the greater the association. Therefore, an odds ratio of 1.5, for example, indicates that the outcome is about 50 per cent more likely to occur among the predictor or risk factor group than among its counterparts; an odds ratio of 2.0 indicates that the outcome is twice as likely to occur among the predictor or risk factor group than among its counterparts.

84 The events defined as social stress were broad and included death of a family member or close friend, serious illness, divorce or separation, mental illness, witness to violence, gambling problem, pressure to fulfil cultural responsibilities, and discrimination or racism (Snowball & Weatherburn 2008, p. 233).

- being a lone parent (odds ratio: 1.39)
- a number of moves in the previous 12 months (odds ratio: 1.33)
- having a severe or profound disability (odds ratio: 1.31)
- unemployment (odds ratio: 1.21)[85]
- living in a household with someone who has been charged with an offence (odds ratio: 1.15).

Based on this exploratory research, Snowball and Weatherburn state that the question remains open as to whether these factors are genuine causes of Indigenous violence or artefacts of other unmeasured factors.

Other exploratory research of Weatherburn, Snowball and Hunter (2008) using the results of the National Aboriginal and Torres Strait Islander Society Survey, but this time to consider the correlates of Indigenous arrest, also shows alcohol abuse to be the strongest correlate controlling for a wide range of other factors. They conclude that the salience of alcohol abuse as a predictor of Indigenous arrest suggests that measures to reduce alcohol abuse, especially in terms of restricting supply and increasing the price of alcohol, should be given a high priority.

In relation to alcohol consumption, some overseas studies have highlighted the possible association between fetal alcohol spectrum disorder (FASD) and crime. For example, Streissguth et al. (1997) examined 473 people who had been diagnosed with fetal alcohol syndrome (FAS)/fetal alcohol effects (FAE), or possible or probable FAS/FAE, and found that 60 per cent of those over the age of 12 had been in trouble with authorities or charged with or convicted of a crime. In another study, Fast, Conry and Loock (1999) found that 23.3 per cent of 287 young offenders remanded for a forensic psychiatric assessment in British Columbia, Canada, had a diagnosis of FAS (1%) or FAE (22.3%).

The text box below explains FASD and FAS.

What is fetal alcohol spectrum disorder?

Fetal alcohol spectrum disorder (FASD) is a broad term used to describe a range of clinical disorders characterised by physical and neuro-developmental disabilities arising from prenatal alcohol exposure. It includes fetal alcohol syndrome (FAS), partial fetal alcohol syndrome (pFAS), alcohol-related neuro-developmental disorder (ARND) and alcohol-related birth defects (ARBD). The primary disabilities experienced by children with FASD vary according to the level and timing of alcohol exposure, but may include:

- hearing problems
- vision impairments
- impaired motor skills
- attention deficits
- learning difficulties
- poor language skills
- memory impairments
- limited planning skills
- poor social skills.

People who are affected by FASD, even as adults, may therefore have difficulties learning from experience and changing their behaviour, making reasoned decisions, predicting and understanding the consequences of their actions, and interacting with people and getting along with others.

Without detection and appropriate intervention, the primary disabilities above may lead in time to 'secondary disabilities'. These may be problems at school (including poor attendance, disruptive behaviour, being suspended or expelled, or dropping out), mental health problems, problematic drug and alcohol use, homelessness, inappropriate sexual behaviour, unemployment, and contact with the criminal justice system (National Organisation for Fetal Alcohol Syndrome and Related Disorders 2008, 2009).

85 Snowball and Weatherburn (2008, p. 232) show lower rates of violent victimisation among Indigenous Australians in receipt of CDEP compared with those who are unemployed, and suggest 'where it is difficult to get Indigenous Australians into the mainstream economy then consideration might need to be given to expanding the reach of CDEP'.

The high prevalence of risk factors in Queensland's Indigenous communities

Although the causes of crime are complex, any examination of Indigenous disadvantage will show an obvious preponderance of risk factors for involvement in crime; this is particularly true in Queensland's Indigenous communities (see Queensland Government 2008b, 2008c, 2008d, 2009a, 2009b; SCRGSP 2007, 2009).

Low income and unemployment

Almost all the families in Queensland's Indigenous communities are low-income families. The vast majority of the residents of Queensland's Indigenous communities rely solely on welfare payments for a weekly income of $220–320 (CYIPL 2007; Hughes 2007). In addition to being low income families, income available for food and other necessities may also be adversely affected by gambling. A recent report states that gambling problems are 'extremely high' in Queensland's remote Indigenous populations (Stevens & Young 2009).

Poor school attendance and performance

The poor school attendance and poor performance of young people at school in Queensland's Indigenous communities is well recorded.

- The Queensland Government's Quarterly Reports on key indicators in Queensland's discrete Indigenous communities[86] show that, in 2008 and in 2009 to date, the average state school attendance rate in these communities ranged from 46–56 per cent at Western Cape College in Aurukun to 80–88 per cent in Hope Vale.[87] The Queensland state average attendance rate for the same period was about 91 per cent (Queensland Government 2008b, 2008c, 2008d, 2009a, 2009b). During the period in which the Quarterly Reports have been published, none of Queensland's Indigenous communities within our terms of reference has exceeded the state average attendance rate in any reporting period (see Queensland Government 2008b, 2008c, 2008d, 2009a, 2009b).[88]
- Statewide information on the reading, writing and numeracy levels of primary school children indicates that those schools in Queensland's Indigenous communities are among the worst-performing schools in Queensland (see Chilcott 2009). In 2007 and 2008 these schools often failed to have any children reach the national benchmarked standards for numeracy and literacy in Years 2, 3, 5 and 7.

Alcohol consumption

There is little information on levels of alcohol consumption specifically for residents of Queensland's Indigenous communities. In its analysis of data from the 2004–05 National Aboriginal and Torres Strait Islander Health Survey and the 2004–05 National Health Survey, the Australian Institute of Health and Welfare (AIHW 2008) found that:

- 59 per cent of Indigenous adults (over the age of 18 years) in Queensland reported drinking at short-term risky or high-risk levels in the last 12 months
- 18 per cent of Indigenous adults in Queensland reported drinking at short-term risky or high-risk levels at least once a week in the last 12 months
- 19 per cent of Indigenous adults in Queensland reported drinking at long-term risky or high-risk levels in the week before the survey.

86 The term 'discrete Indigenous communities' is used by the Queensland Government to refer to those communities included in our inquiry except for those in the Torres Strait Islands. It also includes the communities of Coen and Mossman Gorge, which were not included in our inquiry.

87 Coen State School had a higher reported average attendance rate (89–95%). However, Coen is not a community within our terms of reference.

88 Coen has exceeded the average state attendance rate (see Queensland Government 2008d, 2009b). It is not a community that falls within the scope of our inquiry. It should also be noted that the Quarterly Reports do not include data for the Torres Strait Islands.

The AIHW also noted that, in comparison with non-Indigenous Queenslanders, Indigenous Queenslanders were significantly more likely to report drinking at short-term risky or high-risk levels both in the last 12 months (51% Indigenous; 42% non-Indigenous) and at least once a week in the last 12 months (16% Indigenous; 9% non-Indigenous). However, the percentages of Indigenous (18%) and non-Indigenous (14%) Queenslanders who reported drinking at long-term risky or high-risk levels were similar.

The AIHW also examined combined hospitalisation data for Indigenous Australians in all states and territories except Tasmania and the ACT, from July 2004 to June 2006. It found that Indigenous Australians were hospitalised for alcoholic liver disease and for accidental alcohol poisoning at 5 times the rate of other Australians. Consistent with this, the AIHW also reported that, between 2002 and 2006, Indigenous Australians in Queensland, WA, the NT and SA combined died from alcoholic liver disease at 8 times the rate of non-Indigenous Australians, and from alcohol poisoning at 9 times the rate. In addition, the rate of deaths from mental and behavioural disorders due to alcohol per 100 000 Indigenous population was 10 times that of non-Indigenous Australians.

The evidence that does exist regarding Indigenous people in remote communities suggests that the proportion of drinkers in these communities may not be greater than the proportion among the wider Australian population, or that the proportion of the Indigenous population who abstain may be larger (see, on the other hand, McKnight 2002). In addition there is a substantial group of middle-aged and older Aborigines who have given up drinking, generally without formal intervention. There is also a group, though small, who consume alcohol in moderate amounts. The research suggests that the majority of Aboriginal drinkers (in particular, young males) are consuming alcohol in amounts that are likely to ultimately be harmful to health. As well, alcohol consumption is associated with numerous and often severe personal and social consequences (Hunter, Hall & Spargo 1991; Martin 1993).

There is some community-specific evidence about alcohol consumption in remote Indigenous communities. For example, McKnight, who conducted fieldwork on Mornington Island from 1966 to 1999, claims that about 50 per cent of the local people's total expenditure was on alcohol when the canteen was open (McKnight 2002, pp. 99 & 105). The text box below describes the relationship between alcohol consumption and violence at Aurukun when the tavern was operating.

Policing alcohol-related violence in Aurukun

During our initial consultations, the Three Rivers Tavern at Aurukun was operating on restricted license conditions and serving light beer only during a limited number of hours. When we visited, the Sergeant drove us to the tavern, located toward the outskirts of the town, on a Monday evening at around 6 pm. We heard the tavern before we could see it – the excited noise of a large number of voices each seeking to rise above the others. As we approached the noise reached a crescendo and we saw a couple of hundred people drinking and socialising in the open air shelter of the tavern, which seemed to us to be the most impressive building in Aurukun. The place was 'buzzing' but there was little hint of violence at the time we were there.

We drove away from the tavern and we passed several people staggering from the tavern back into town. The Sergeant drove us to a nearby crossroads and said 'this is where it all happens', 'this is where the big fights occur'. He explained that often drinkers would leave the tavern and converge at this place on their way back to town and fights would break out among the clans or family groups. The Sergeant told us that when the brawls grew to involve lots of people there was little police could do but watch, impotent to intervene. He stated 'even if we had 50 or 150 police we could not stop it'. The Sergeant described that in such a situation police would observe from a safe distance, waiting for the energy of those fighting to ebb. Anyone seen not fighting 'according to the rules', 'being too violent', or carrying on after the fighting was collectively deemed to be 'all over', would be arrested later in the evening or next morning.

Other police told us that some people could drink about 20 beers during the few hours the tavern was open. We were told that people queue constantly for beers and drink as they circulate in the queue. In this way, drinkers purchase and consume beer continually, and even though only light beer is available people can still become quite intoxicated in a short period.

During consultations, police and the Cape York Institute of Policy and Leadership raised the prevalence of FASD in Queensland's Indigenous communities with us. A senior police officer also commented that affected children in these communities are sadly often 'ruined from the moment of conception'.

There are few data available on alcohol consumption by Indigenous females during pregnancy and few published studies have examined the prevalence of FASD in Australia. It has been suggested that FASD in Australia may be underdiagnosed because of lack of knowledge and under-recognition of the disorder by health professionals (Peadon et al. 2007).

Overall estimated rates of FASD in Australia range from 0.06 to 0.68 cases per 1000 births (Harris & Bucens 2003, cited in Peadon et al. 2007), but several sources suggest that there are much higher rates in Indigenous communities. Data from the WA Birth Defects Registry, for example, show that the rate of FAS is considerably higher in Indigenous than in non-Indigenous children, with rates of 2.76 and 0.02 per 1000 respectively (Bower et al. 2000, cited in Peadon et al. 2007). Rates of up to 4.7 per 1000 Indigenous births have been reported in the NT (Harris & Bucens 2003, cited in Peadon et al. 2007), while the Australian Paediatric Surveillance Unit has also indicated that the Indigenous population is overrepresented in reported cases of FAS since it began monitoring in 2001 (Elliott et al. 2008). Although the prevalence of FASD in Queensland's Indigenous communities is largely unknown, one study in Far North Queensland estimated a FASD prevalence of 15 per 1000 Aboriginal children (1.5% of the Aboriginal child population), with a prevalence of 36 cases per 1000 (3.6%) in one Cape York community (Rothstein, Heazlewood and Fraser 2007).

Poor parenting

Perhaps most significant, however, are the indicators suggesting that far too many children in Queensland's Indigenous communities are growing up with poor parenting. In many ways Queensland's Indigenous communities suffer from a depleted level of human capacity that seriously adversely affects parenting (see Stanley 2008). This was a theme in the consultations we conducted for our inquiry. One OIC in a community with a substantial and serious juvenile crime problem expressed the view that 'these kids aren't bad' but that they were often 'just craving love and attention'. Some community members also noted that 'parents aren't taking responsibility' and indicated that many parents were struggling with bringing up their children. Comments included that some parents in these communities 'don't know how to bring up kids any more' and others expressed concern about the lack of 'discipline' or stated that parents don't know what to do about their children because they think 'they can't touch them any more.'[89]

For every Aboriginal child, on average there are 1.1 adults, compared with over 3 for other Australian children (Stanley 2008). Many of those Indigenous adults are sick, mentally ill, in prison or abusing substances, which means that many children are either without their primary carers or having to care for themselves. During consultations for this inquiry, many people made reference to the devastating impact of the 'lost generations' on the bringing up of children. In doing so they were referring to:

- the effects of forced removals on the parenting capacity of many Indigenous people (which we have referred to above)
- excessive sickness and premature death, which are common in Indigenous society; Palm Island, for example, has been described as 'above all else, like some other remote Aboriginal communities, a place of funerals' (*R v. Wotton* [2007] QDC 181 per Nase DCJ)
- those 'lost' to alcohol and other addictions
- the frequency with which people go to prison or into juvenile detention, which also removes adults from their important roles in caring for the next generation.

89 Such comments reflected that some parents had few parenting skills other than using physical punishment.

Many parents in these communities are very young themselves; it has been claimed that 30 per cent of babies in Indigenous communities are born to teenage mothers (Stanley 2008).[90] It is common in Queensland's Indigenous communities that grandparents, not parents, are acting as the primary carers for children (Pearson 2003).

The Queensland Government's Quarterly Reports on key indicators in Queensland's discrete Indigenous communities show high rates of poor parenting in these communities. In general, rates of children subject to substantiated child protection notifications[91] and of children subject to finalised child protection orders[92] are considerably higher in Queensland's discrete communities than in Queensland as a whole.

For example, in terms of children subject to substantiated child protection notifications:

- Between 1 October 2007 and 30 September 2008:
  - in Lockhart River and Wujal Wujal there were five or fewer substantiated child protection notifications[93]
  - otherwise the communities ranged from 21 per 1000 children in the Northern Peninsula Area to 63 per 1000 children in Palm Island and Mapoon.

This is in contrast to the Queensland state average of 7 per 1000 for this period (Queensland Government 2008d, 2009a). Similar figures are presented in earlier Quarterly Reports; it is a rare event that any single community in a reporting period is below the state average (Queensland Government 2008b, 2008c).

In terms of finalised child protection orders:

- Between October 2007 and September 2008:
  - in Mapoon and Wujal Wujal there were five or fewer finalised child protection orders[94]
  - otherwise, the rate of finalised orders ranged from 22 per 1000 in Yarrabah to 89 per 1000 on Mornington Island.

This is in contrast to the Queensland state average of 7 per 1000 (Queensland Government 2008d, 2009a). Again, similar findings are presented in earlier Quarterly Reports (Queensland Government 2008b, 2008c).

The Queensland Government has also acknowledged that the number of Indigenous children in these communities on child protection orders has been increasing over time (Queensland Government 2008c, 2008d). This is likely to reflect, however, that there has been substantial under-reporting in this area, so that an increased focus on and more resources devoted to child abuse problems in these communities are resulting in increased numbers of orders.

90 It was frequently suggested to our inquiry that the Australian Government's 'baby bonus' payments may have added to this trend. In our consultations people often expressed concern about this and also about 'kids having kids'.

91 A substantiated child protection notification arises when an investigation and assessment carried out by the Department of Child Safety (now Child Safety Services within the Department of Communities) finds that a child has been harmed or is at risk of being harmed in the future.

92 Where a child has been harmed or is at unacceptable risk of harm and does not have a parent able and willing to protect them, the Department of Child Safety (now Child Safety Services within the Department of Communities) will apply to the Childrens Court for a child protection order. This measure is a count of the number of children subject to a finalised child protection order on a certain date.

93 There were no substantiated child protection notifications in Mossman Gorge, but this community is not within our terms of reference.

94 There were five or fewer child protection orders in Coen and Mossman Gorge, but these communities were not included in the terms of reference for our inquiry.

The indicators of poor parenting practices, poor educational outcomes of those children currently at school in these communities, and the high levels of involvement in crime and high levels of incarceration of members from these communities, point to the fact that, without substantial efforts being made right now, things may get even worse in the future in terms of the size and seriousness of the crime problem in these communities.

Summary and conclusions: the crime problem in Queensland's Indigenous communities may get worse

There is an obvious concentration of risk factors for involvement in crime, including those that tend to be associated with persistent offending, in Queensland's Indigenous communities. Knowledge about early risk factors for delinquency and later criminal offending indicates that, without successful interventions, the crime problem in Queensland's Indigenous communities may get worse in the future.

It appears that community life has been badly affected by the 'lost generations' — that is, intergenerational effects have accumulated in families in these communities as the result of past policies of forced removals, alcohol dependence, excessive sickness and premature death, and the frequency with which people go to prison or into juvenile detention. Perhaps these adverse effects are felt most keenly in the area of parenting.

We have already seen in Chapter 4 that Queensland's Indigenous communities have high rates of offending in the youngest age group of criminality, from 10 to 14 years. We also have suggested that there is evidence of a high proportion of recidivist offenders.

What this highlights is the critical need to set young people in Queensland's Indigenous communities onto a better path forward — many before us have highlighted the importance of 'breaking the cycle'. Children in these communities and the quality of their parenting must be made a first priority, because it is through these young people that we might hope to change the pattern of crime in Queensland's Indigenous communities in the future.

We have described both the preponderance of risk factors and the high levels of offending present in Queensland's Indigenous communities, and we must now consider if these communities are currently equipped to respond effectively. In Chapter 6 we describe the policing and other services that are available to respond to the problems confronting them.

6

POLICE, THE CRIMINAL JUSTICE SYSTEM AND OTHER SERVICES TO RESPOND

To complete the background for our consideration of our three terms of reference relating to police relations, watch-house custody and other criminal justice resourcing in Queensland's Indigenous communities, we now consider what policing and other services are available to respond to issues of crime, violence and related dysfunction in these communities. It should be noted that local police are very much at the front line of this response and it was clear from our consultations with police that they often felt alone and dismayed because of the lack of other services available to support them in their role.

As well as policing services, the conventional criminal justice 'system' typically includes youth justice services, courts, prosecution services, legal services, corrective services, and services provided by other support agencies. In Queensland's Indigenous communities these conventional criminal justice system services, where they are available, may operate alongside local justice components. Since the Royal Commission into Aboriginal Deaths in Custody and preceding it, various efforts have been made to develop local justice initiatives in these communities to operate alongside the more conventional criminal justice system. These local justice initiatives seek to enhance local authority for dealing with problems, and to be more responsive to local circumstances and culture. Four key local justice components for these communities have had relatively longstanding policy support from the Queensland Government:

1. **Community justice groups — that is, local community members to provide local authority and input on a range of justice-related issues**
2. **Local laws — that is, 'law and order' by-laws made by the local council**
3. **Local courts — that is, Justices of the Peace (JP) Magistrates Courts constituted by community members who are specially trained justices of the peace and who can deal with guilty pleas for by-law offences and some criminal offence matters**
4. **Local police — that is, local people employed by the council as community police or by the QPS as Queensland Aboriginal and Torres Strait Islander Police (QATSIP), who have a role enforcing by-laws.**

As well, there are services that sit outside the criminal justice system but are closely connected to it; these services also try to deal with manifestations of the violence and dysfunction of Indigenous communities. They include child protection services and, in the four Welfare Reform Trial communities, the services provided as part of the trial, including through the operation of the Family Responsibilities Commission (FRC).

The criminal justice 'system' in these communities

QPS police officers

Because these communities are small but have high levels of crime, the position of police is very powerful. The QPS submission (p. 3) argues: 'Of all Government agencies, [the QPS] can claim to have been the most central figures in many Queensland Indigenous communities across generations.'

Since 1993, after a QPS review of policing in these communities, the QPS has focused on providing a permanent police officer presence in most Aboriginal communities (see QPS 1994). With the exception of Napranum and Old Mapoon, sworn police are permanently present in

all of the Indigenous communities located on the mainland, and on Palm Island and Mornington Island.[95] [96]

However, most communities in the Torres Strait Islands remain without a permanent police presence. In the Torres Strait, sworn police are located only on Thursday Island and on adjacent Horn Island. With the exception of the QATSIP on Badu Island, there is no permanent QPS presence in the other Torres Strait Island communities (most of which are the 'outer islands'). The Queensland Government has committed to improving the situation in the Torres Strait Islands, for example, a commitment has been given to build a new police station at Badu Island and a police aircraft has been purchased, to be based on Horn Island, which should be operational by the end of 2009 (Queensland Labour 2009; correspondence received from the QPS, 3 September 2009). In 2009, the Commissioner of Police has also been appointed as a Queensland Government champion for the Torres Strait Islands.

The vast majority of police officers in Queensland's Indigenous communities are uniformed police who perform general duties and first-response roles. If a matter is serious enough to warrant a specialist investigator (a detective), a police dog handler team or a Scenes of Crime Officer, that officer will drive in or fly in from a larger centre. However, Thursday Island, which services most of the Torres Strait, has a permanent team of specialist investigators.

Police in these communities provide a wider range of services than is provided by police in metropolitan or regional centres. Police in these locations usually perform the full range of counter and office duties,[97] and are often responsible, for example, for issuing driver licences, acting as clerk of the court when circuit courts visit, and possibly performing functions more typically carried out by a Corrective Services officer.

A further layer of complexity is added by the fact that, as we discussed in Chapter 2, since the early 2000s restrictions limiting the supply of alcohol, including AMPs, have been introduced in Queensland's Indigenous communities (in all places other than the Torres Strait Islands). These restrictions are enforced by police and have added substantially to their workload in these locations. (Breaches of the alcohol restrictions are processed through the courts.)

Officer numbers

There are over 120 sworn police officers working in Queensland's Indigenous communities (submission of the QPS, p. 3). The Queensland Government has sought to increase the number of police in many of these communities in recent years, including in the Torres Strait (Valentin 2007, pp. 10 & 12; Spence 2007a). For example:

- In February 2007, largely in response to demands made by the police union, the Queensland Government announced increases in police staffing levels in a number of Queensland's Indigenous communities (Beattie 2007).
- In June 2007, the Queensland Government announced further increases for 'almost every Indigenous community in Queensland'; 29 extra police officer positions were funded (Spence 2007a) (see Appendix 5 for details by community of the announcement of allocation of extra resources).
- The government also announced in June 2007 that there would be upgrades in the rank of OICs at many Indigenous communities, from Sergeant to Senior Sergeant.

95 Napranum and Old Mapoon are currently provided policing services through the Weipa police station. The QPS plans to provide a permanent police presence in Old Mapoon, which is about an hour drive (90 km) north of Weipa, at some point in future. No such plans exist for Napranum, which is about 15 minutes drive south of Weipa (13 km).

96 The proportion of Aboriginal communities with a permanent police presence is higher in Queensland than in WA, SA and the NT (Valentin 2007).

97 Most of the police stations in these locations are small and have no administrative staff or support (typical of small stations anywhere).

After these announced increases, the number of allocated officer positions is:

- highest at Palm Island and Thursday Island, which have allocations of 16 and 17 officers respectively[98]
- high at Aurukun, Bamaga, Kowanyama, Yarrabah, Mornington Island, Doomadgee and Woorabinda, which each have allocations of 10 officers
- also high at Cherbourg, which has seven officers, with a further 22 stationed at the nearby Murgon station
- low at Hopevale, Pormpuraaw and Lockhart, which are each four-officer stations[99]
- lowest at Wujal Wujal and Horn Island which are two-officer stations.

Police-to-population ratios in Queensland's Indigenous communities can be generally described as high.[100] The police-to-population ratios in these communities have been increasing over time and range between about one officer per 80 people at Woorabinda and one officer per 330 people for the Northern Peninsula Area communities (QPS 2006b). In comparison:

- the Queensland state average is lower, being one police officer to every 438 Queenslanders as at October 2008 (QLA (Spence) 2008, p. 3234)
- the national average is lower, being one police officer to every 440 Australians as at October 2008 (QLA (Spence) 2008, p. 3234).

Information provided by the QPS in 2008 and 2009 indicates that, although the QPS had increased the number of allocated officer positions in many of Queensland's Indigenous communities, keeping all these positions filled is difficult (QPS correspondence to the CMC dated 2 October 2008 and 29 July 2009). (Appendix 5 also details by community the number of approved positions and the actual numbers on the ground as at 9 July 2009.)

As is frequently the case with services in these communities, the limited housing for police in many communities has been an obstacle to increasing police numbers on the ground (Bligh 2007; Beattie & Spence 2007). In Woorabinda, for example, we were informed that police agreed to live temporarily, for a period of months, in shipping containers in order to be able to provide increased police numbers on the ground. However, we were informed during consultation in 2009 that officers remain in this substandard accommodation well over a year later, because of difficulties in reaching agreement on land tenure with the local Indigenous council.

Some communities themselves continue to request further increases in police numbers. For example, the Aurukun Shire Council has repeatedly called for more permanent police to help deal with sly grogging, crime and violence (Barry 2009a, 2009b).

Availability of police

None of the police stations located in the Indigenous communities operate on a 24-hour basis[101] and at most stations officers are rostered to work a fixed pattern of day shifts and afternoon or evening shifts towards the end of the week (there are some exceptions — such as Thursday Island — that work a night shift to the early hours at the end of the week). Day shifts are typically fairly busy for officers, who work to follow up calls from the night before, and take crime reports and statements (this situation is typical of many areas of the state).

98 Thursday Island QPS Division also has a contingent of specialist officers, including Water Police.

99 At the time of our consultations, Lockhart River and Pormpuraaw each had an allocation of two positions, which appeared less than adequate for the workload, especially with alcohol restrictions to be policed.

100 The QPS uses a 'regional allocation model' based on various social, demographic and crime statistics to determine the police and civilian staffing requirements of a particular location. Allowances for rest days, training and annual leave are factored into the model.

101 Murgon police station provides a 24-hour service and assists in the policing of neighbouring Cherbourg (submission of the QPS, p. 4).

Station opening hours vary depending on police numbers and other operational requirements. When police are busy and after the conclusion of rostered shifts, calls for service are diverted to the district HQ or regional call centre, such as Cairns or Mt Isa. The communications centre operator will then make a decision on whether or not to call out local police, with that decision based on criteria including the seriousness of the situation.

Local justice initiatives

Local justice initiatives, including community justice groups, local 'law and order' by-laws, local courts and local police, have been developed in these communities for reasons such as these:

- to fill gaps in criminal justice service delivery on the ground in communities
- to provide community ownership of and involvement in justice issues, or to re-establish community authority
- to increase the scope for culture or local knowledge to be taken into account in justice processes
- to reduce the overrepresentation of Indigenous people in the criminal justice system, particularly in custody (Chantrill 1998; Green 2000).

The Queensland Government announced in 2006 that it would phase out community police and QATSIP — the two models that provided local people with limited policing powers to enforce the by-laws. Instead it announced a shift to the standard service delivery model that applies elsewhere in Queensland, which includes QPS police officers and Police Liaison Officers (PLOs). In Chapter 10 we provide a detailed discussion of this shift and the issues surrounding the models for involving local people in policing roles.

Community justice groups

Community justice groups (CJGs) first began in Kowanyama and Palm Island in the early 1990s, and then were extended to other places in response to the recommendations of the Royal Commission into Aboriginal Deaths in Custody (Johnston 1991, vol. 4, pp. 102–9).[102] The operation of the groups reflected a strong emphasis on community ownership of and input into justice issues, not limited to narrowly defined justice functions of punishment but relating to prevention, identifying community issues and problems, and providing local definitions and responses to these issues and problems (Chantrill 1998, p. 4).

Each of Queensland's Indigenous communities now has a community justice group established. The local members of the community justice groups provide their time voluntarily but there is a paid position of coordinator for each group. The functions of community justice groups are now described in legislation and include:[103]

- Making recommendations about alcohol restrictions and AMPs.
- Taking part in court hearings and sentencing and bail processes. For example, a court must have regard to submissions made by a representative of the community justice group when sentencing an Indigenous person.[104] Submissions may relate to matters such as the offender's relationship with his or her community, cultural considerations and what

102 Although they were originally established in fewer locations, there are now 43 community justice groups operating across remote, regional and urban areas of the state (Queensland Government 2006a, p. 32). On inception, CJGs were supported by the Queensland Corrective Services Commission, but responsibility for their support shifted to the Department of Aboriginal and Torres Strait Islander Policy in the mid-1990s and then to the Department of Justice and Attorney-General (JAG) in 2006.

103 See s. 19 of the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

104 See s. 9(2)(p) of the *Penalties and Sentences Act 1992* and s. 150(1)(g) of the *Juvenile Justice Act 1992*. See also s. 9(7) of the Penalties and Sentences Act and s. 150(4) of the Juvenile Justice Act, which requires the CJG to advise the court of any possible conflict of interest.

rehabilitation programs are available in the particular community (including drug counselling, alcohol management, and assistance with domestic violence problems).

- Developing networks with relevant agencies to ensure that problems of crime prevention, justice, community corrections and related matters affecting Indigenous communities are dealt with.
- Supporting Indigenous victims and offenders at all stages of the legal process.

The possible functions of community justice groups are therefore very broadly defined, and include functions within the conventional justice system and outside it. For example, previous reports have noted that community justice groups have been involved in the following wide range of activities:

- conducting night patrols to break up fights, resolve disputes and return children who are at risk of offending to their homes (Fitzgerald 2001)
- organising sport and recreation activities for juveniles (Cunneen, Collings & Ralph 2005, p. 131)
- encouraging police to exercise their discretion not to charge an individual but to refer them to the community justice group to be dealt with according to local law and custom (Cunneen, Collings & Ralph 2005, p. 131)
- ensuring that offenders complete any community service ordered by the court (Fitzgerald 2001, p. 115)
- providing local programs for use as sentencing alternatives for the courts or as diversionary alternatives to sentencing (Cunneen, Collings & Ralph 2005)
- visiting prison to support offenders and supporting parolees (Cunneen, Collings & Ralph 2005)
- contributing in the areas of child safety, health and education (Queensland Government 2006a, p. 32).

There is little doubt that the role of community justice groups in developing and implementing AMPs has often been a very difficult one, as it has put them at the centre of a great deal of conflict. During our consultations we heard that this has resulted in some members of community justice groups being intimidated by those in the community who are strongly opposed to the AMP.

The Department of Justice and Attorney-General (JAG) provides administrative support to the community justice groups and has an active program for providing training to the groups through 2008–09 (Queensland Government 2008f). The Queensland Government allocated $3.6 million in the 2008–09 budget to JAG to fund community justice groups (which exist throughout the state and not just in Queensland's Indigenous communities).

'Law and order' by-laws

Historically, Aboriginal and Torres Strait Island councils have been the only councils permitted to make local laws or by-laws that replicate state criminal offences. Most of Queensland's Indigenous communities have 'law and order' by-laws that contain a range of offences mirroring the criminal law in areas of property offences, offences against the person, public nuisance and good order offences. The by-laws also often address truancy, child neglect and alcohol offences.

By-law offences are dealt with by the Magistrates Court or by the local Justice of the Peace (JP) Magistrates Court (see below). A conviction for a by-law offence does not form part of a person's criminal history and is not recorded in QPS crime report data, although such offences are recorded in the Magistrates Court data (JAG pers. comm., May 2009).

There are a number of rationales for 'law and order' by-laws in Indigenous communities. In part, the model has been developed in Aboriginal and Torres Strait Island local council communities to promote local ownership and control of crime and disorder issues (QLA (Katter) 1984, p. 2895). Another reason for this unique situation — in which state criminal laws are duplicated by Aboriginal and Torres Strait Island council by-laws — is to allow enforcement action to be taken by local people in policing roles, such as community police. Community police do not have any enforcement powers under the criminal law, but can have powers conferred on them, under the by-laws, to enforce the by-laws. This has historically been important in many Indigenous communities, particularly where there was no, or only a limited, permanent presence of QPS officers (see Chapter 10 for further discussion of the role played by community police and also QATSIP).

Finally, the use of 'law and order' by-laws has been encouraged on the basis that the use of by-laws provides an opportunity to raise funds for local justice initiatives from the proceeds of enforcement of fines (the most common penalty imposed) (Fitzgerald 2001, p. 136). Fines for by-law offences accrue to the local council rather than to state government consolidated revenue.

However, when viewed across Queensland's Indigenous communities, the local 'law and order' by-law framework can be said to be inconsistent in three ways:[105]

1. In terms of which communities had the power to, and which made, 'law and order' by-laws:
    - Originally all of the communities except for Aurukun and Mornington Island had the power to make 'law and order' by-laws.
    - Of those with the power to do so:
        - the Torres Strait Island communities all made 'law and order' by-laws
        - Cherbourg, Hope Vale, Kowanyama, Napranum, the Northern Peninsula Area communities, Palm Island, Pormpuraaw, Woorabinda, Wujal Wujal and Yarrabah made 'law and order' by-laws
        - the communities of Doomadgee, Lockhart River and Old Mapoon did not make such laws.
2. In terms of the changes introduced by the relatively recent local government reforms for Indigenous councils.[106] The reforms have resulted in the following situation:
    - The local 'law and order' by-laws continue in most of those Indigenous communities which have them, but there is no power to make new ones.
    - In areas where the councils were amalgamated — such as in the Torres Strait Island communities, with the creation of the Torres Strait Regional Council, and in the NPA, with the creation of the Northern Peninsula Area Regional Council — the new councils retain the ability to make new 'law and order' by-laws that do not replicate state laws and the by-laws that previously existed remain on foot during a transition period.[107]

105 This inconsistency across communities is not necessarily a negative thing as it may reflect the different circumstances and needs of different communities. A large degree of inconsistency certainly adds to the difficulties in providing proper administrative and other support to the scheme from the Queensland Government, which may in turn have an adverse effect.

106 Reforms have been made to better align Indigenous councils with mainstream councils and to bring them under the same regulatory regimes. For example, the *Local Government (Community Government Areas) Act 2004* extended to community councils many of the provisions and benefits of the *Local Government Act 1993* normally enjoyed by local governments. In 2007, in response to questions about governance and sustainability, the broad roles and limited capacity of community councils, and deficiencies in corporate governance and accountability, councils in the Torres Strait Islands and those in the Northern Peninsula Area were amalgamated in the statewide reform process.

107 See s. 77 of the *Local Government (Community Government Areas) Act 2004*, Part 9 of the *Aboriginal and Torres Strait Islander Communities (Justice and Land Matters) Act 1984* and s. 159ZZZB of the *Local Government Act 1993*.

3. In the extent to which the by-laws are enforced and used instead of, or in addition to, state criminal law offences:
    - In some communities, especially those with community police or QATSIP officers and operative local courts (see JP Magistrates Courts discussed below), by-laws play an active role in the system, allowing offences of a relatively minor nature to be dealt with at the local level by local courts.
    - The enforcement of by-laws has also varied over time. Decisions about whether to charge a person under a by-law or under a state criminal law offence may be influenced by factors such as the degree of community commitment to, or ownership of, the by-laws; the preferences of the local QPS officer-in-charge and their relationship with the community police or QATSIP; the capacity of the local JP Magistrates Court, and its capacity to relieve the burden on the standard Magistrates Court.

Justice of the Peace (JP) Magistrates Courts

Local community members are trained as JP magistrates so that they can convene local JP Magistrates Courts, for which they are paid a fee. These courts have been developed since 1997 and are now established in 14 of Queensland's Indigenous communities, although not all of them are active. At the end of October 2008, there were seven or eight active JP Magistrates Courts, with some communities holding the courts once a month (for example, Woorabinda, Mornington Island, Cherbourg and Yarrabah). JAG provides administrative support for the program. It has an active program of training in 2008–09 for JPs who may constitute this Magistrates Court in Indigenous communities, with the aim of establishing more regular sittings of these courts (Queensland Government 2008f).

JP Magistrates Courts deal mainly with breaches of community by-laws and simple offences where the defendant pleads guilty, bail applications, and domestic violence matters where there is a consent order. Although they have the legislative authority to hear committal proceedings, they are discouraged from doing so. Similarly, although they can impose a penalty of up to six months imprisonment, they are discouraged from imposing custodial sentences and are instead advised to adjourn the matter to the next sittings of the Magistrates Court.[108]

Local police prosecute in the JP Magistrates Court. Defendants are rarely represented because of the limited availability of legal services in most communities. In Cherbourg and on Thursday Island there is some potential for legal advice to be given by locally based legal services. JAG is currently in discussions with ATSILS about the possibility of developing a hotline to facilitate the provision of advice to people in these communities who are facing appearances in the JP Magistrates Court.[109]

The JP Magistrates Courts are a local community-based justice initiative intended to provide a more relevant and responsive court for Aboriginal and Islander people in the community than the standard Magistrates Court.[110] Such courts have been promoted for their potential to:

- provide greater community ownership and involvement in the criminal justice system and in sentencing (see Fitzgerald 2001)
- facilitate greater use of diversionary sentencing options, such as community-based sentences, as local JPs would be better informed about local programs and the suitability of those programs for particular offenders

108 The jurisdiction of the JP Magistrates Court is described in s. 29 of the *Justices of the Peace and Commissioners for Declarations Act 1991* and ss. 552C and 552H of the *Criminal Code Act 1899*; further information provided in personal communication by JAG officer, 4 November 2008.

109 Personal telephone communication, JAG officer, 4 November 2008.

110 The JP Magistrates Courts have taken the place of the former Community Courts, which were established under the *Community Services (Aborigines) Act 1984* and the *Community Services (Torres Strait) Act 1984* after a review in 1998 by the then Department of Aboriginal and Torres Strait Islander Policy.

- provide more regular courts and thereby overcome the delays associated with waiting for the Magistrates Court circuit (see Fitzgerald 2001).

However, the extent to which the JP Magistrates Court can fulfil these aims depends on the capacity and willingness of:

- police to charge people under the by-laws
- community members (often community justice group members) to train and sit as the court
- agencies, mainly the police and JAG, to provide administrative support to establish regular courts.

Other conventional criminal justice system services

What youth justice services are available?

The Department of Communities (DOC) is responsible for youth justice services, including the provision of:

- youth justice conferencing[111]
- advice to the court on the suitability and availability of programs for young offenders
- supervision of young offenders on community-based orders
- young offender programs
- detention of juvenile offenders.

The DOC does not have a permanent presence in most of the Indigenous communities and this limits its ability to deliver the full range of services to these communities. For example, youth justice conferences are largely provided by non-Indigenous convenors on a 'fly-in, fly-out' basis about every six months (submission of the DOC, p. 23). The DOC has reported that, although the number of youth justice conferences increased in 2007–08 across Queensland, the number of conferences involving Indigenous people decreased (DOC 2008).[112]

Recently the DOC set up an Early Intervention Coordination Panel at Woorabinda to link young people and their families to existing service providers in order to 'reduce the number of young people in the youth justice system' (DOC 2008).

The DOC also provides youth detention services throughout Queensland. There are two juvenile detention facilities: the Brisbane Youth Detention Centre, which accommodates all young women in detention in Queensland, and young men from south of Rockhampton, and the Cleveland Youth Detention Centre in Townsville, which accommodates young men and boys from Townsville and areas north.

What legal services are available to defendants?

Legal services for Indigenous people charged with criminal offences are mainly provided by the Aboriginal and Torres Strait Islander Legal Services (ATSILS), with some defendants represented by Legal Aid Queensland (LAQ).[113] These legal services do not have a permanent presence in most communities. ATSILS does have offices, however, at Thursday Island and Murgon (which services nearby Cherbourg).

111 Conferencing is one strategy that has been introduced in Queensland since the 1990s and that aims to provide a diversionary approach based on principles of restorative justice.

112 The DOC has not reported the number of youth justice conferences held in Queensland's Indigenous communities.

113 LAQ may provide criminal law services where the defendant chooses them or where ATSILS has a conflict of interest. Criminal defence services may also be provided by private legal firms, but because of the costs the vast majority of defendants from these communities would rely on publicly funded defence services.

Mostly, lawyers have limited time to spend with their clients in Queensland's Indigenous communities as in most cases legal advice is provided by lawyers and field officers who travel to the community from regional centres, usually immediately before a circuit court sitting.

What criminal court services are provided?

There are no permanently established courts in Queensland's Indigenous communities and offences are mainly heard by Magistrates Court and District Court circuits[114] visiting the communities. More complex and serious offences are dealt with through the courts in regional centres.[115]

Circuit courts involve magistrates, District Court judges and other court staff, prosecutors (from the police or the Office of the Director of Public Prosecutions), defence lawyers, juvenile justice officers, and probation and parole officers travelling from Cairns or another regional centre to Indigenous communities to convene the court to deal with a list of matters that would have built up since the last court sittings. For some communities the participants travel by road — for example, Yarrabah and Woorabinda — but for many communities people fly in and out for the circuit. In those where there is only very limited accommodation available — such as in some of the Western Cape and Gulf communities, Lockhart River and many of the Torres Strait Islands — the court and other officers will fly in and out of the community for each day of the circuit. If an offender is in custody in a correctional facility, the police will usually fly the prisoner back to the community in the police plane to have the matter dealt with.

The Queensland Government has made an effort to increase the number and frequency of circuit courts held in Queensland's Indigenous communities and a large and growing number of offences are dealt with by Magistrates and District Courts circuits.

What corrective services are available?

Queensland Corrective Services (QCS) has a limited presence in Queensland's Indigenous communities and as a result the supervision for community-based orders[116] and suitable rehabilitation programs[117] in these communities has often been unavailable or inadequate.

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114 Magistrates Courts deal with about 96 per cent of all criminal matters in Queensland (Queensland Magistrates Court 2007, p. 47). Offenders are usually required to appear before the Magistrates Court in the first instance. In the case of juveniles, the magistrate will sit as a Childrens Court. The Magistrates Court hears and determines bail applications for all but the most serious offences and can deal with minor or simple offences such as traffic offences, shoplifting, disorderly behaviour and by-law offences. The Magistrates Court can also deal with some of the more serious criminal offences (known as 'indictable offences') involving such matters as theft, assault, fraud and drug offences, in certain circumstances. If the nature of the matter is so serious that the Magistrates Court does not think that the person can be adequately punished by that court, the matter may be committed to a higher court to deal with. For the serious offences — that is, indictable offences that are not dealt with in the Magistrates Court — the Magistrates Court conducts a committal hearing to determine if there is sufficient evidence to commit the person for trial or sentence to the higher court (the District Court or the Supreme Court).

115 Serious and more complex matters are generally dealt with in the permanently established courts such as Cairns, Townsville or Rockhampton, or in the circuits to other regional centres such as Mt Isa.

116 The courts are able to impose a variety of community-based orders that may provide an alternative to being sent to prison in some cases. Community-based orders include probation, community service and intensive correction orders. These orders are designed to provide offenders with supervision (often by staff of Corrective Services) and may also require the offender to attend counselling and other treatment programs. In the case of community service orders, as reparation offenders provide labour to community projects operated by not-for-profit community organisations.

117 Queensland Corrective Services offers a range of programs targeting the offending behaviour of people subject to court supervision, and post-prison orders including substance abuse relapse prevention, a sex offender program, anger management, and cognitive skills development. Offenders can also be referred to programs from other services.

In recent years QCS has initiated the Aboriginal and Torres Strait Islander Strategy, part of which involved the establishment of permanent probation and parole reporting offices (first in Palm Island, Doomadgee, Mornington Island, Normanton and Thursday Island, and then in 2007–08 in Weipa, Aurukun and Woorabinda) to provide greater sentencing support to the courts in these locations. Islands in the Cape York region continue to receive visits from probation and parole staff (QCS 2007, 2008). QCS also provides specialist programs being delivered in Doomadgee, Mornington Island, Normanton and Mt Isa to target violence and substance-abuse related needs (some of these programs involve community members or Elders in their delivery) (QCS 2008, p. 29).

QCS is also responsible for prison facilities for adult offenders sentenced to a period of imprisonment. Prisons servicing Queensland's Indigenous communities include the Lotus Glen Correctional Centre near Mareeba, the Townsville Correctional Centre, the Townsville Women's Correctional Centre and the Capricornia Correctional Centre near Rockhampton (QCS 2008). Prisons in Queensland are expanding; the Queensland Government's 2008–09 budget allocated $118.3 million for the expansion and redevelopment of Lotus Glen Correctional Centre and $37.3 million for the refurbishment and expansion of the Townsville Correctional Centre.

What other support services are available?

Child protection

Child safety officers are generally not permanently present on the ground in Queensland's Indigenous communities. Such services continue to be provided mostly on a 'fly-in, fly-out' basis. Even after the major overhaul of Queensland's child safety system that has occurred in recent years in response to a CMC public inquiry and report (see CMC 2004a), systemic failures continue to be identified in relation to child protection in Queensland's Indigenous communities. These failures include lack of training, unclear policies, unrealistic workloads and high turnover of child safety officers working with Queensland's Indigenous communities (see Barnes 2008). During consultations, many local police expressed dissatisfaction with the response provided to child protection problems. Comments included that 'I don't know how [the Department of] Child Safety get away with it here' and that 'a different standard applies, it is an Indigenous standard and it is very, very low'. Another commented: 'If this were in Brisbane, 70 per cent of these kids would be taken away from their families.'

Many of Queensland's Indigenous communities have developed, or are developing, 'safe house' facilities to provide shelter for women and children affected by family violence. The Queensland Government provides substantial support for such facilities. In some communities such services have been funded in the past but we were told during consultations that often their operation has not been consistent or sustained.

In 2009, safe houses were being built in Doomadgee, Aurukun, Palm Island, Kowanyama and Pormpuraaw. Work is also under way to identify and develop safe houses in the NPA, elsewhere on eastern Cape York and on Mornington Island. An existing council property in Yarrabah is being refurbished to act as a safe house. It is proposed that these houses will provide residential care facilities and 'Family Intervention Services' (Queensland Government 2009a, p. 14). In the 2008–09 budget, the Queensland Government allocated $14.6 million over four years to set up child protection safe houses in Cape York Peninsula, the Torres Strait and Mornington Island (Keech 2008).

Although not directly designed to provide child protection services, a 'Safe Haven' initiative has been developed over a number of years, with both state and federal government involvement, at Cherbourg, Palm Island, Mornington Island and Coen. When this initiative was first announced in 2005 it was said that it would provide support for strategies to reduce violence and for 'new temporary homes' for children and young people wishing to escape possible harm caused by family violence (Patterson & Pitt 2005). The residential component of the 'Safe Haven' initiative was subsequently abandoned but the initiative continues to provide funding to a range of programs focusing on children in these communities. Initially the Queensland and Australian Governments together committed $18 million to the 'Safe Haven' initiative (Pitt 2007). In the most recent Queensland Government budgets, the DOC has been allocated millions in recurrent funding for the 'Safe Haven' project (see Queensland Government 2008g).

Alcohol treatment services

From late 2008, as part of the further alcohol reforms aiming to make these communities as 'dry' as possible, the Queensland Government has also allocated funding for alcohol treatment services in these communities. Such services are to include clinical drug and alcohol assessment and counselling (including the employment of locally based Community Alcohol Support Workers in a number of communities), clinical detoxification services and residential rehabilitation services (Queensland Government 2008f). As part of this initiative a number of communities have also received funds for night patrol services (see Chapter 10 for further discussion of community night patrols).

Although the funds have been allocated, at the time of publication it appeared that few alcohol treatment services were available on the ground in Queensland's Indigenous communities. During consultations we heard senior officers of the Queensland Government acknowledge the unfortunate delay in the provision of these services. Criticism by community members was prominent during our consultations.

An exciting innovation: the Family Responsibilities Commission

The Family Responsibilities Commission (FRC) began operation on 1 July 2008 in Queensland as part of the Cape York Welfare Reform Trial. The trials are the brainchild of Noel Pearson and the Cape York Institute for Policy and Leadership. They have been supported by the Queensland and Australian Governments and are taking place in four communities: Aurukun, Coen, Hope Vale and Mossman Gorge.

The Welfare Reform Trial aims to rebuild social norms through a range of strategies, including making welfare payments conditional on responsible behaviour, such as ensuring children are going to school, abiding by the law and taking care of one's house.

The FRC is a sub-judicial body that administers the Welfare Reform Trial scheme. It makes decisions about a person's compliance with socially responsible standards of behaviour and determines appropriate actions to address the dysfunctional behaviour of people in the community.

The FRC is notified when a community member fails to meet any of four obligations:

1. Ensuring their children attend school
2. Keeping their children safe from harm and neglect
3. Not committing offences punishable in the Magistrates Court, and in particular drug, alcohol and family violence offences
4. Complying with their obligations under tenancy agreements.

The FRC uses a conference process to deal with people before it. A panel consisting of three people conducts the conference — a retired magistrate and two Local Commissioners from the relevant community. In this way, the FRC hopes to rebuild local authority.

The FRC takes a case management approach and refers those conferenced, either by agreement or by order, to appropriate services and programs. Compliance with the agreement or order is monitored and as a last resort the FRC may make a Conditional Income Management order, under which 60 or 75 per cent of welfare payments are managed by Centrelink for up to 12 months (FRC 2008; see also CYIPL 2007) (see also the *Family Responsibilities Act 2008*).

As part of the Welfare Reform Trial, new Wellbeing Centres have been built in each of the four communities to provide holistic and community-based approaches to drug and alcohol addiction, gambling, violent behaviour, anger management problems and mental health disorders. These centres are the primary referral agency for the FRC. Initially the centres have been run by the Royal Flying Doctor Service. They are staffed with a coordinator, a counsellor and one or more community support workers. These staff are supported by a part-time medical practitioner and a senior Indigenous health worker. Parenting programs are another key support service to which the FRC may refer people, and such services have been rolled out in the four communities in order to support the trial (FRC 2008).

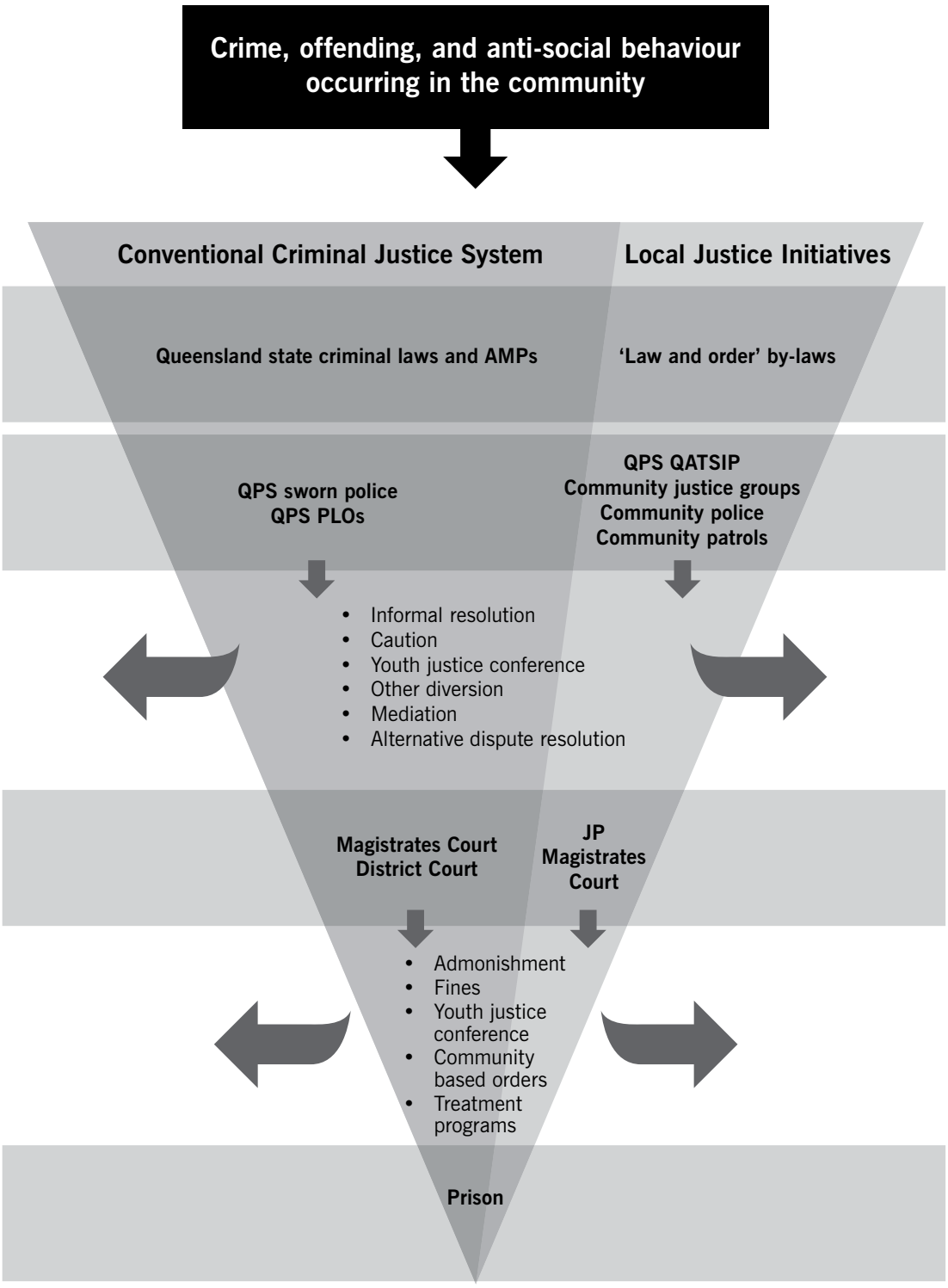
The FRC is to continue until 31 December 2011 and its budget at this stage for that period consists of $3.5 million from the Australian Government and $9.4 million from the Queensland Government (FRC 2008). The Welfare Reform Trial is to be independently evaluated, including the operation of the FRC.

A combination of conventional and local justice components

Figure 6.1 broadly depicts the justice system in Indigenous communities (although the model varies from community to community in its operation), showing a combination of conventional criminal justice elements and the local justice components. The conventional criminal justice system and local justice initiatives can be thought of as acting as a large net or filter. Offenders may pass through various layers of the filter, or may be 'filtered out' of the system back into the community. Those offenders not 'filtered out' at some point may ultimately end up incarcerated.

Figure 6.1 does not depict the reality of the criminal justice system in many communities where on the ground there may be significant gaps in the model depicted. For example, because of factors such as limited capacity and resources, in many communities there are gaps in the provision of the services outlined (see Chapters 16, 17 and 18 for further discussion of the gaps in the provision of criminal justice system services in these communities). Despite the variations among the communities, the model is useful in so far as it shows the relationship between the various local justice initiatives and conventional processes and sets the scene for further discussion.

Figure 6.1: The criminal justice system and local justice components responding to crime in Queensland's Indigenous communities



Summary and conclusions: conventional and local elements must respond to crime and violence

The criminal justice system is a complex 'system' of service delivery and this is particularly true in Queensland's Indigenous communities, where conventional criminal justice system services often operate along with local justice initiatives.

QPS officers

The QPS has been a central presence in many Queensland Indigenous communities across generations.

The QPS has for some time been focused on increasing its permanent presence across Queensland's Indigenous communities:

- There are now sworn officers permanently in all of the Indigenous communities located on the mainland (with the exception of Napranum and Old Mapoon), on Palm Island and on Mornington Island.
- However, most Torres Strait Islands communities remain without a permanent sworn police presence. In the Torres Strait, sworn police are located only on Thursday Island and the adjacent Horn Island.

The QPS presence in Queensland's Indigenous communities has been a growing one. There are more than 120 sworn police officers working in these communities. Although the Queensland Government has announced substantial increases to QPS officer numbers in these locations, often these positions are difficult to fill.

Police-to-population ratios in Queensland's Indigenous communities can be generally described as high and these ratios have increased over time.

Despite the increases, some communities themselves continue to request further increases in police numbers.

Local justice components

Partly in order to fill the gaps in criminal justice service delivery in these locations, and to increase community ownership of and involvement in justice issues, a number of local community justice initiatives also operate in many of Queensland's Indigenous communities. For example:

- all communities have established a community justice group to perform a range of criminal justice related functions
- some communities also have local 'law and order' by-laws to deal with a limited number of crime and disorder issues
- some communities have established local JP Magistrates Courts to provide locally convened courts to promptly deal with by-law offences and other relatively less serious offences.

Other conventional criminal justice system services

Many conventional criminal justice services are provided on a limited, or 'fly-in, fly-out', basis in Queensland's Indigenous communities. For example:

- youth justice services are limited; youth justice conferencing is provided about six-monthly on a 'fly-in, fly-out' basis
- community-based corrective services, to provide supervision of community-based orders and community rehabilitation programs, have also been limited; permanent probation and parole officers have been provided only in recent years in Doomadgee, Mornington Island, Normanton, Thursday Island, Weipa and Aurukun; permanent reporting offices exist in Woorabinda and on Palm Island.

Other services

Despite the allocation of substantial government funds and the apparent commitment on the part of the Queensland Government, the provision of alcohol treatment services on the ground in many communities is yet to become a reality.

The Family Responsibilities Commission

Though in many respects it could be said to have similar goals to the criminal justice system and local justice initiatives, the FRC provides a radically different process — one focused on conferencing and case management, through which it attempts to restore social norms, particularly in regard to people's prime responsibility to nurture, protect and educate their children and those in their care.

We now have the background picture for our three terms of reference. Our first term of reference requires us to consider relations with police in Queensland's Indigenous communities and to suggest ways in which they might be improved; we consider this now in Part 2.

Part 2:
Improving relations with police

This part of the report responds to our first term of reference and deals with improving relations between the police and people in Queensland's Indigenous communities.

In Chapter 7 we describe relations between Indigenous communities and police. It is our view that the relationship is variable, but that it can generally be characterised as fragile, tense and highly volatile. These relations must be understood in terms of the history of events, including Australia's colonial history, events preceding and including the Royal Commission into Aboriginal Deaths in Custody, and the more recent death of Mulrunji and its aftermath.

In Chapter 8 we consider the main causes of tension and conflict in the relationship between police and Indigenous communities, including the respective contributions of overpolicing, underpolicing and high crime. We also outline the strong views put forward by members of Queensland's Indigenous communities that what is needed is more active and responsive policing, not less policing.

In Chapter 9 we consider policing strategies and how 'more' policing can be provided in these communities without further inflaming tensions or damaging relations, but in a way that can actually help to improve relations.

Chapter 10 considers the vital but difficult part to be played by Indigenous people in policing roles. One of the solutions often proposed to improve relations between the police and Indigenous communities is to increase the number of Indigenous police or otherwise increase Indigenous involvement in policing. This chapter considers the efforts that have been made in Queensland to use Indigenous community police, QATSIP officers and PLOs as a way of giving Indigenous people opportunities to be directly involved in delivering policing services.

Chapter 11 looks at what can be done to improve relations in terms of the level of support provided by the QPS to officers in these communities; it considers issues of recruitment and retention, cultural training of police serving in Queensland's Indigenous communities and QPS organisational structures to provide support.

Chapter 12 provides a detailed discussion of our proposed new structure within the QPS, the Indigenous Partnership Policing Command, to provide a high-level and dedicated focus on improving Indigenous policing.

7

UNDERSTANDING RELATIONS

We describe relations between police and Queensland's Indigenous communities as tense, fragile and highly volatile. Such a description should come as no surprise to any Australian with an awareness of events in our colonial history, or indeed of contemporary police-related events involving Indigenous people.

In this chapter we consider:

- **why good relations are important in Queensland's Indigenous communities**
- **how relations were described to our inquiry by members of Queensland's Indigenous communities and police**
- **the context of historical events within which the lack of trust and confidence in the relationship between police and Indigenous communities must be understood.**

Why are good relations important?

There are many reasons for the importance of positive relationships between police and Indigenous communities.

Though it would be unrealistic to expect 'universal love of the police', particularly from 'those at the sharp end of police practices', effective policing depends very much on an adequate degree of community support (Reiner 2000, p. 49). In the absence of public confidence, people may be less willing to report offences, provide information necessary for investigations, or cooperate with other requests made by police. Poor relations with police can also reduce the legitimacy of the law and the criminal justice system itself, which may ultimately lead to more offending behaviour.

Without effective policing, it can be argued that Queensland's Indigenous communities will not have the level of stability necessary for achieving improved outcomes in a wide range of other areas of Indigenous disadvantage such as education, health and employment.

During our consultations with Indigenous communities, we heard much acknowledgment of the importance of good relations with police. People across communities recognised two main things:

1. That police play an important part in achieving a safe community and that people generally want the police
2. That good relationships with police are essential for effective policing and that the relationships should be improved.

Although most police recognised the central importance of strong relations for effective policing, one officer-in-charge stated his belief at the opposite extreme: 'You don't need a relationship with the community to police here. I'm about law enforcement.'

How can relations be described?

At the outset we must acknowledge that any generalisations about the relationship between police and those living in Queensland's Indigenous communities cannot provide a completely accurate picture of relations. Relations between police and Indigenous communities are highly variable from place to place and from time to time, and are particularly dependent on the individual speaker and the officers that any individual speaker has in mind.[118]

Our inquiry heard a range of views from Queensland's Indigenous communities about relationships with police. In some of our community meetings the relationship was described as 'quite good', while in others the relationship was described as 'pretty poor' or 'bad'. For example, in one community people commented: 'there are two officers … they don't treat people right, we don't want them here'. At another location one older woman described the police as 'our guardian angels really, just like the Flying Doctor Service'.

That being said, relations between police and Queensland's Indigenous communities can be generally described as 'tense' or 'fragile'; they demonstrate a level of volatility not found in most other places.[119] [120] In general, it can be said that community members did not have high levels of trust and confidence in their police; in particular, the lack of confidence in police was related to people's beliefs about the inability of police to protect them from crime and violence.

Most police working in Queensland's Indigenous communities clearly had positive intentions. It was often stated they were there because they wanted to 'help' or to 'make a difference'. One OIC said that he had made his decision to work in a community based on the fact that 'there are just so many problems here that I thought I must be able to help to fix some'.

Some police referred to the difficulties involved in working in these high-crime communities and admitted that relations could be strained. At the time of our initial consultations, relations in some communities, especially Doomadgee and Aurukun, were described as particularly volatile. During more recent consultations, we heard the situation at Woorabinda described as a 'tinder box' and at Mornington Island, police stated their perception that for many members of the community 'we're the enemy'.

Some officers were 'tired' of the problems they confronted in these communities and of continually dealing with the same offenders without seeing any improvements. One OIC said that after a while it feels as though 'every job is the same as the last, we're always dealing with alcohol fuelled violence'. One District Inspector advised that he saw young officers arrive at communities 'all keen and full of good intentions', only to ultimately 'have their hearts broken'

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118 This view is consistent with the description of relations between police and Indigenous communities in Queensland provided in previous reports (see Aboriginal and Torres Strait Islander Women's Task Force 1999, pp. 226–32; Fitzgerald 2001, p. 179).

119 This is consistent with results from the CMC's 2008 public attitudes survey, which revealed differences in perceptions of and experiences with the police between Aboriginal and/or Torres Strait Islanders and non-Indigenous respondents. For example, Indigenous respondents:

- generally reported having more negative perceptions of police and believing that the police generally or mostly behave badly
- were also less likely to report having had a satisfactory experience with a police officer, yet were significantly more likely to report having had an unsatisfactory experience with an officer, or knowing of someone who had
- reported less confidence that complaints made against police would be properly investigated.

The majority of survey respondents in 2008, regardless of Indigenous status, perceived that Aboriginal and Torres Strait Islanders are treated differently from 'white' Australians by police in Queensland (CMC 2009).

120 Complaints received about police by the CMC and the QPS also provide a measure of relations between Queensland's Indigenous communities and police. We found that about 20 per cent of all Indigenous complaints made against police since 2004 are from Queensland's Indigenous communities. Given the difficulties that Indigenous people in these communities may have making a complaint against police, this proportion of complaints from Indigenous communities indicates that the relationship with police in these communities is fraught.

after regularly experiencing abuse, violence and allegations of misconduct. Another Senior Sergeant described his plans to leave the community he had been in for a number of years, saying 'people … [here] have done their dash with me now'.

Police in some communities indicated that they did not feel well supported by the local Indigenous council. The relationship between police and councils was particularly difficult in those places where some councillors are known or suspected to be involved in illegal activities, or where they are heavy drinkers or known to be opponents of the AMPs that police are required to enforce. Some police said they were aware that certain individuals would try to inflame others over even innocuous policing incidents, to incite tensions and undermine the standing of the police. One District Inspector also described the tension that had arisen after a councillor had been charged with a minor breach of the AMP (a bottle of wine had been found at the councillor's home). The councillor had no previous convictions and had been a supporter of the police. Police had discreetly tried to give an assurance that they had not lost respect for the councillor over the matter. However, at our meeting with the council, that councillor clearly remained upset with the police.

We specifically asked local police if they felt safe living and working in the Indigenous communities. Despite the reputation of many of the communities for violence, every officer claimed to feel safe. One officer said that she much preferred working on Palm Island to the Gold Coast, as she had experienced far less violence directed at her on Palm. However, like other officers we spoke to, she went on to describe an assault she had suffered in the community. At one community, police produced concrete blocks and metal bars that had been used in recent assaults against police while they were searching for home brew. The incidents described to us did not result in the officers we spoke with receiving serious injuries, though from the stories they told it seems they were fortunate not to do so. The point being made by police was that, although the violence against police may be no worse than in some other places, it is certainly still part of the job.

A small number of officers qualified their claim of feeling safe by saying that they would be very wary out in the community at certain times or places, or that they would never respond alone to calls for service from certain households. They noted a tendency for particular people, described by police and others as 'very angry young men', to throw rocks at police vehicles or to vigorously resist arrest.[121] One police officer described the dangers of working at night in such isolated locations, in complete darkness, with no 'backup' available, and confronting suspects who may have extensive histories of violent behaviour.

Some police noted that the anger and violence directed at them were not in any way 'personal'. They observed that offenders who have fought against and assaulted police will often come back the next day or when sober and apologise for their behaviour.

Good relations are possible: policing 'legends'

Importantly, Indigenous people in almost every community named individual officers, both currently serving and from past years, who were highly regarded.[122] Local police and others we spoke with also named the same officers. Some referred to them as the 'legends'.

121 As described in Chapter 4, we examined QPS offence data over a 12-year period to 2006 to determine the number of assaults against police in the Indigenous communities (including those recorded as assaults where the victim was a police officer and 'assault police' incidents). We found that on average about 5 per cent of all assaults involved a police officer victim (the range was from 3% to 8% across the communities). This does not appear to be excessively high, given the high rate of assaults generally in the communities and the high number of police per population, but we have no comparison data for other locations.

122 This is consistent with other reports which described the overall relationship with police as a concern but which also acknowledged that, on a one-on-one basis, some strong relationships existed between individual officers and members of Indigenous communities (see, for example, Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999, pp. 226–32; Fitzgerald 2001, p. 179).

These officers, largely because of their attributes as individuals, employed a firm but fair style of policing that engendered confidence, trust and respect. Officers who people believed were not respectful, were authoritarian in their manner, or were 'too rough with us' were also mentioned to us, with some referred to as 'bullimen' (there were both males and females).

The OIC of the police station in one of Queensland's Indigenous communities is clearly very much the key in terms of community relations; it is the OIC to whom less experienced officers and community members look for leadership, and who sets the tone and style of policing in a community. Notably, almost all the serving OICs we discussed across the communities were held in high regard. In one community, police described the influence of the OIC on behaviour of community members. They stated that during those periods when the OIC was away from the community, such as when he is on holidays, it was noticeable that some people in the community would 'play up'.

History of events provides important context

Australia's colonial history

The fragile, tense and highly volatile relations between police and Queensland's Indigenous communities must be understood within a historical perspective. As Professor Chris Cunneen (2001a, p. 13) states: 'It has become generally accepted that police forces in Australia have provided a consistent and generally oppressive point of contact between Indigenous people and colonial society'. Historically, police were involved in armed conflict with the Indigenous population during the early period of colonisation and then for over a century police acted to administer the government's policies of 'protection', which included ensuring compliance with child removal policies and regulating Indigenous movement. This history continues to affect contemporary relations (detailed descriptions of this history can be found elsewhere — see, for example, Cunneen 2001a; Finnane 1994; Johnston 1991).

Contemporary history of relations

Events in the more recent past also must inform our understanding of relations between police and Queensland's Indigenous communities. The Royal Commission into Aboriginal Deaths in Custody was conducted because Aboriginal people's level of anger toward, and fear and suspicion of, police regarding deaths in custody that had occurred had built to very high levels. The report stated that the extent to which Aboriginal people 'regard the police as enemies' at that time was illustrated by the fact that:

> When a series of Aboriginal hangings occurred in police cells, there were large numbers of Aboriginal people who could and did readily draw the conclusion that police were simply killing Aboriginal people. (Johnston 1991, vol. 2, p. 207)

The Royal Commission described the attitude of Aboriginal people to police as one of widespread 'hostility' and 'antipathy'. It stated that 'very often police are the visible and obvious target for Aboriginal frustrations' (Johnston 1991, vol. 2, pp. 195 & 207). The results of a survey of police in Queensland conducted by the Royal Commission indicated that police themselves agreed relations were not good and that things needed to change (Johnston 1991, vol. 2, p. 216).

The Royal Commission did not establish that any of the Aboriginal deaths in custody it investigated were due to deliberate violence or brutality by police officers; rather it found that the high number of Aboriginal deaths in custody were a direct result of the high number of Aboriginal people in custody. However, the Royal Commission argued that relations between Aboriginal people and police were a key factor in determining the number of Aboriginal people in custody (Johnston 1991, vol. 2, p. 194) (see the further discussion of arguments about overpolicing in Chapter 8).

At about the same time the National Inquiry into Racist Violence provided extensive documentation of Indigenous complaints of violence against criminal justice agencies, including police, in all states and territories. The report found that the relations between Aboriginal people and police were 'at a critical point' due to the 'widespread involvement of police in acts of racist violence, intimidation and harassment' (HREOC 1991, p. 1).

In Queensland, reports since the time of the Royal Commission have continued to describe relations between police and Indigenous communities as highly problematic. For example:

- the report of the Aboriginal and Torres Strait Islander Women's Task Force on Violence stated that the relationship between Indigenous communities and police needed to be improved; it described 'continuing hostility, mistrust, suspicion and fear between communities and Queensland police'(1999, pp. 226–32)
- Fitzgerald's *Cape York Justice Study report* (2001, p. 179) noted the pervading sense of distrust and alienation that members of Indigenous communities feel in relation to the criminal justice system as a whole, and police in particular.

Since the Royal Commission, other Aboriginal deaths in police custody, including in Queensland, have continued to see Aboriginal people direct suspicion and anger at the police. In 1993 Daniel Yock, an 18-year-old Aboriginal youth, was picked up by police for disorderly behaviour in West End and was dead on arrival at the Brisbane City Watch-house. The following day, Aboriginal people brawled with police outside police headquarters (see CJC 1994). In NSW in 2004, the death of an 18-year-old Aboriginal youth, Thomas James Hickey from injuries sustained during police operations sparked rioting against the police in Redfern in Sydney (NSW Police 2004).

Like those events that triggered the Royal Commission over 20 years ago, the events that triggered this inquiry (see Chapter 1) also show that many Indigenous people in Queensland's Indigenous communities have a continuing mistrust of the criminal justice system generally, especially police, and that many carry an expectation that Indigenous people will be treated unjustly and violently by police. For example, Queensland courts have found that, during the days that preceded the Palm Island riot, there was 'expectation, anticipation and suspicion in some parts of the Island community that improper conduct by police might have been involved'. In this context, a public meeting at which it was suggested that the 'official' view might be that the death of Mulrunji was an accident triggered the riot (see *R v. Poynter, Norman & Parker; ex parte A-G (Qld)* [2006] QCA 517 at [62]; see also *R v. Wotton* [2007] QDC 181 at [8]; *Clumpoint v. Director of Public Prosecutions (Qld)* [2005] QCA 043).

Although the riot on Palm Island may have resulted in part from the fragile pre-existing state of relations with police, the death of Mulrunji, and its aftermath, had a serious impact on relations in the short term and arguably also in the long term.

Mulrunji's death and subsequent events

The death of Mulrunji and its aftermath did very obvious damage to relations between police and the Palm Island community in the short term:

- In January 2006, a report commissioned by the Queensland Government soon after the death of Mulrunji and the riot that followed on Palm Island argued that the relationship between the community and the police there had effectively broken down. The report stated; 'Recent events have led to the development of a "siege mentality" ' (McDougall 2006, p. viii). This statement may have been true of both police and the community at the time.
- About six months after the death of Mulrunji and the riot on Palm Island, police commented that relations were still 'uneasy' on the Island and that the period since the riot had been marred by regular violence directed at police or police property, such as windows of police vehicles being smashed or rocks being thrown at officers (see *Clumpoint v. Director of Public Prosecutions (Qld)* [2005] QCA 043).

Although the damage to relations has been felt most acutely on Palm Island and by those directly involved in the events, there has also been an ongoing broader impact leading to increased levels of antagonism, mistrust and frustration between Indigenous Queenslanders and police, as we describe below.

Impact on police involved

Police involved in the riot described it as the most difficult and terrifying situation they had ever been in. The victim impact statements provided by police to the court indicated that during the riot officers feared their own deaths were imminent, and they did what they could to make contact with and say farewell to loved ones. The video evidence suggests that the possibility of police discharging firearms, even with the purpose of killing, was very real (see *R v. Poynter, Norman & Parker; ex parte A-G (Qld)* [2006] QCA 517 at [29]). One victim impact statement from a police officer involved says:

> … I know this may sound overdramatic, given that I didn't end up firing a single shot, however the fact that I made a cold, logical decision to fire into a large crowd if necessary with obvious consequences has caused me much angst since. I often reflect on how much bigger this whole sorry Palm Island saga would have been if that lock had given away and we had ended up firing on the crowd, killing God knows how many people … (*R v. Poynter, Norman & Parker; ex parte A-G (Qld)* [2006] QCA 517 at [29])

In the same case, the following victim impact statement made by one police officer was described as reflecting a 'common theme' for the police involved:

> I think the whole incident has left me with an overall feeling that I don't care what happens with Palm Island or its people and this I feel has diminished my humanity a little. (*R v. Poynter, Norman & Parker; ex parte A-G (Qld)* [2006] QCA 517 at [29])[123]

District Court Judge Shanahan, in sentencing Lex Wotton, a leader of the riot on Palm Island, also commented:

> The telling feature of the impact [on police] has been their changed attitude to Indigenous people. Whilst many were dedicated and involved in endeavours to improve relations with Indigenous people, much of that has been overcome as a result of what they were subjected to on that day. (*R. v. Lex Patrick Wotton (Qld)* [2008] DC Transcript, Townsville, 7 November, p. 11)

Impact on community members involved

The events surrounding Mulrunji's death and the subsequent riot have also had a deep impact on members of the Palm Island community. For example, the events have exacted a tragic human toll there; at least three suicides took place of individuals close to the events as the subsequent legal processes unfolded — the suicides of Mulrunji's son, another relative and his cellmate in the watch-house (see ABC news 2006a; Donaghy 2007).

123 Similarly we heard during our consultations that young police at Aurukun were shocked and dismayed when some people they had regarded as friends had 'turned on them' during the riot there. It was suggested that this was having a continuing impact at the time of our initial consultations. It has also been noted in relation to other riots that such events can seriously affect police morale. In other similar situations where riots have occurred, police have reported feeling 'really let down … We like to think we are friends to the community, not enemies. But some people down there treat us like an occupying force' (cited in Weatherburn 2006, p. 26).

Court cases have also revealed the trauma caused to members of the community by the police response to the riot. One case describes this police response as the 'overwhelming use of State force to reassert police authority over the community' (*R v. Wotton* [2007] QDC 181 per Nase DCJ). Another case describes the circumstances of the arrest of a rioter, in the days after the riot when a state of calm had been restored, as an 'an alarming and terrifying experience':

> … Twenty-four police officers attended the house. They included 13 members of the Special Emergency Response Team (SERT), members of the Public Safety Response Team (PSRT), and Detective Sergeant Robinson, the officer in charge of the Palm Island CIB. The SERT officers were armed with automatic machine guns and wore black clothing, gloves and balaclavas with goggles. They made forced entry to the house through an upstairs locked door … From the bathroom Sergeant Robinson could hear the shower running. The bathroom door was locked. Entry to the room was forced by SERT officers who, with Sergeant Robinson, entered the room. The shower curtain may have been ripped off its rail …
>
> SERT officers effected the arrest. Guns were probably pointed at [the offender] and he was told in no uncertain and in forceful terms to put his hands up. He was handcuffed behind his back. At some stage he was allowed to put a pair of shorts on … (*R v. Poynter* [2006] QDC 019 per Wall DCJ at p. 2)

Another Palm Island man, David Bulsey, who was filmed trying to stop the riot, was similarly arrested and charged in the days after the riot. A number of police officers with guns forced entry to his home when he and his heavily pregnant wife and six children were in bed; his forceful arrest was witnessed by the family and he was removed from the island and put in prison. Although Bulsey was granted bail a fortnight later, he was unable to return to the island and his family until the charges were dismissed many months later (ABC news 2005a, 2005b). He and his wife are now seeking damages for the trauma caused to him and his family by his ordeal (Chilcott 2008). A number of other Palm Island residents are also seeking compensation from the Queensland Government in relation to the events that followed the death of Mulrunji.

Impact on the broader community

Mulrunji's death and the subsequent events have been played out very publicly.[124] Every step along the way — each of the justice system processes — has attracted controversy and debate. This is true, for example, of:

- the investigation of Mulrunji's death
- Acting State Coroner Clements's Finding of Inquest
- the decision to not prosecute and then the decision to prosecute Senior Sergeant Hurley
- the successful appeal to the District Court by Senior Sergeant Hurley, and then the appeal to the Court of Appeal made by Mulrunji's family and the Palm Island Council, in relation to the findings of Acting State Coroner Clements that Hurley's actions caused the death of Mulrunji (see Chapter 1 for further details).

Both the police and Indigenous people have publicly expressed support for their 'side' in the controversy. For example, both police and Indigenous supporters have organised or planned rallies, protests and marches.

There were controversial aspects of the police response to the events as they unfolded:

- The Police Commissioner continued to defend the actions of police on Palm Island even after strong criticism was expressed about the police conduct of the investigation of Mulrunji's death — for example, in the Acting Coroner's Finding of Inquest (see Koch & Parnell 2005, p. 7; Walker 2006, p. 4).

124 Several books have now been published about the controversy (see, for example, Waters 2008; Hooper 2008).

- For a period of time, many police officers wore blue armbands with Hurley's police number on them; these armbands were sold by the police union to encourage officers to show their support for Hurley and to raise funds for his legal defence. The Townsville Correctional Centre banned centre staff, police and visitors from wearing the armbands because of concerns they could be 'offensive' and could 'cause trouble', but QPS officers were otherwise free to wear these armbands, even while on duty in Indigenous communities (see Musgrove 2007, p. 25; ABC news 2007a).
- The Police Commissioner awarded medals for bravery to police on the eve of the sentencing of one of the ringleaders of the riot. Two of the officers awarded medals were those criticised for their actions in conducting the investigation of Mulrunji's death. In these circumstances many people thought the timing of awards was insensitive and inflammatory; some thought that there were some locals whose actions in trying to put out fires and calm the tensions were equally worthy of recognition (see Michael 2008; ABC news 2008a, 2008b).

The outpouring of support for Senior Sergeant Hurley from fellow officers was very strong; many officers felt personally offended at Hurley's treatment by the justice system. For example, police were widely reported as being 'angry and incensed' over the decision ultimately made to lay charges against him. Police union executive officer Sergeant Mick Gerrard was reported as saying that every police officer in the state was 'living in fear' after the decision (*Gold Coast Bulletin* 2007, p. 4). The then police union vice-president, Denis Fitzpatrick, said: 'Basically the whole police service feels that this sort of incident could happen to them on any given day, and they want to get in and help' (Flatley 2007, p. 6; see also Wilkinson 2007, p. 3).

On the Indigenous 'side':

- after Lex Wotton, a leader of the riot at Palm Island, was sentenced to seven years jail for his role, the Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma, stated that it was a 'sad day' for Indigenous people that a sentence such as this had been handed down and that 'Indigenous people are being forced into a situation where they have to react to get attention' (ABC news 2008c; see also Pearson 2006c)
- others have claimed that Lex Wotton is a 'political prisoner' and have campaigned for his release (see, for example, <http://freelexwotton.blogspot.com/>)
- the Palm Island Mayor, Alf Lacey, caused the then Queensland Government Police Minister, the Hon. Judy Spence, to cancel a trip to Palm Island when he stated that she 'was not welcome on Palm Island' because the police involved in the riot were to be awarded medals (ABC news 2008d).

It has frequently and publicly been stated that aspects of the case demonstrate that police and the legal system cannot be trusted. For example, Professor Gracelyn Smallwood has repeatedly called for a Fitzgerald-type inquiry into alleged corruption in the Queensland police force and a Royal Commission into the death of Mulrunji (ABC news 2007b). Professor Paul Wilson, a criminologist at Bond University, and Mike Reynolds, then Member for Townsville, have also called for a Royal Commission (ABC news 2008e). Noel Pearson stated, at the time of the Director of Public Prosecutions' original decision not to prosecute Hurley, that it was 'driving Indigenous people to the depths of despair'; others have claimed that it showed 'there's a different value of a white life and a black life in the state of Queensland' (cited in ABC news online 2006). Palm Island leaders have continued to call for 'unanswered questions' regarding the case to be dealt with (cited in ABC news 2008e). The level of mistrust and cynicism about police conduct in the Indigenous population has risen to such an extent that the *National Indigenous Times* in late 2008 published an editorial describing what it perceived to be the injustices associated with the case. It included the following 'old Queensland joke that seems to have plenty of relevance today':

> Q: Hey, Jimmy, did you see that Billy Smith died?
>
> A: Died? I didn't even know he'd been arrested. (Graham 2008)

Ultimately it appears likely that the death of Mulrunji and subsequent events have had a seriously divisive and corrosive effect on relations. The events have polarised views about police relations with Indigenous communities, and this is true well beyond the individual officers who were present when the rioting occurred and the affected community members. Like the Royal Commission into Aboriginal Deaths in Custody, these events have become a landmark in their own right in terms of Indigenous affairs in this country, but unlike the Royal Commission, to date, they carry little in terms of a message of hope.

Although they have been many, and taken a long time, the justice processes associated with the death of Mulrunji have not had a reconciling effect; a great deal of trauma and 'unfinished business' still remain and this is likely to contribute to the ongoing buildup of frustration and anger if it is left unresolved. The Queensland Premier, the Hon. Anna Bligh, has acknowledged that, although the matter has been through numerous legal processes and been the subject of extensive legal consideration, 'it has been a traumatic process for all involved' (cited in ABC news 2008g). Our limited consultations undertaken in 2009 to finalise this report indicated that relations on Palm Island were thought by police at least to have 'settled down' and the current OIC was said to have had a calming influence. Despite this seeming improvement, it is our view that the police and the community on Palm Island will need to make a dedicated effort to heal wounds and build bridges into the future. We cannot, however, dictate to police or the community how such a process should unfold.

A wide range of events have inflamed tensions

Any consideration of events in Queensland's Indigenous communities will show that a wide range of police-related events have from time to time seriously inflamed tensions with communities. The events at Aurukun that also led to our inquiry provide an example in which a riot against police was triggered by a far less serious set of circumstances than a death in custody (see Chapter 1 for details of these events).[125] It has also been publicly reported that the following circumstances have all led to rioting and posed a serious threat to relations with police in particular communities:

- policing of a domestic disturbance at Aurukun in February 2009, which led to a group of people gathering outside the police station and officers being flown in to assist from Cairns (ABC news 2009b)
- the introduction of alcohol restrictions on Mornington Island in 2003 (Townsend 2003)
- 'boredom' and parental neglect in Woorabinda in 2006, said to be the cause of a riot that involved up to 40 young people; during the riot a police vehicle and the police station were attacked (ABC news 2006b).

We saw firsthand during our consultations that the relationship with police in Queensland's Indigenous communities can quickly change and that sometimes even seemingly minor or day-to-day events can be sufficient to inflame serious tensions. For example, we conducted a general community meeting in Doomadgee that was attended by a large number of people, some of whom were clearly very angry about a range of incidents, several involving local police.[126] One recent incident in particular was raised, with claims that 'this is going to be another death in custody!'. We describe the community complaints about this incident and the police version of events in the accompanying text box.

125 This also reflects experience overseas, which shows that 'police conduct' often forms the precipitating event in riots (see Sherman 1983; Weatherburn 2006).

126 We learnt that tensions were high in the community at the time over several matters, including native title issues, alcohol restrictions and the prospect of welfare reforms and Commonwealth intervention, as well as police activities such as child safety investigations, enforcement of alcohol restrictions and arrest incidents.

The custody incident at Doomadgee

The incident raised at our general community meeting in Doomadgee was the arrest of a local man several days before our visit. We were told that police had gone to a house and arrested the man for no reason and without a warrant. The incident had been filmed by residents of the house and the video was posted on the internet to publicise the 'injustice'. At the community meeting, claims were made that the man would die in custody. It was not clear if anyone present had actually viewed the video, but several people became very agitated and then told us of their concerns about police activities generally. The matters of concern ranged from arrests of people for charges such as breaching alcohol restrictions and causing a public nuisance, to a police officer swearing when he found that the post office was closed. Some of those present also demanded to know why police were not charged with offences by the CMC (this primarily related to a complaint matter previously investigated by the QPS and monitored by the CMC).

After the community meeting, senior police described their version of the arrest incident to us. A warrant had been issued for the arrest of a man after a breach of parole. On learning of the man's location, three police officers attended a house and arrested the man. The officers were aware they were being filmed. Police later learned that the video-recording had been posted on the internet.

The day after the community meeting, an inquiry team member met with a Queensland Corrective Services officer. When asked about the incident, the corrections officer confirmed that a warrant for breach of parole had been issued. We were later able to view the video on the internet. The video shows police arriving by vehicle at the front of a property. Officers can be heard advising the man and others present that they had a warrant to arrest him and return him to prison for breaching parole. The three officers present were heckled and jostled throughout the incident, causing two officers to trip down steps, but the officers did not react other than to advise the residents that they would be charged for obstructing police.

This incident shows that, where there is mistrust or suspicion (which may arise for a variety of reasons, including the history of police interactions with Indigenous people), the detention of a person in police custody can become a 'flashpoint', exciting strong emotions and intense hostility.

Our view that past police-related events occurring in Queensland's Indigenous communities show that a wide range of circumstances can trigger a crisis in relations, or seriously damage them, is consistent with Professor Don Weatherburn's (2006) review of events that trigger the most extreme breakdown in relations with police, in that they have led to riotous behaviour. He concludes:

> There does not seem to be any discernible pattern to events that trigger riots in crime-prone neighbourhoods. The flashpoint may be a serious miscarriage of justice, such as the acquittal in Los Angeles of a number of white police officers involved in the brutal bashing of Rodney King. What outsiders might view as innocent events, however, can also spark a serious riot. The riot in Macquarie Fields was sparked by the death of two young men fleeing from police in a stolen car. The Redfern riot was sparked by the death of TJ Hickey while being followed by police. The riot in Walgett in February 1997 was sparked by police attempts to arrest two women engaged in a fight outside of a local pub … The more interesting question for policy, then, is not what sparks the riot but what causes a build up in anger, resentment and frustration in a local community or a significant section of it. (p. 23)

As suggested by Weatherburn, the interesting policy question is not so much to consider in detail what events trigger an immediate crisis in relations with police, but to understand what contributes to the buildup of anger, resentment and frustration in a community and how policing can be conducted in such a way as to minimise these effects.

Summary and conclusions: sustained effort needed

People in all these communities clearly recognise the important role police play in enhancing community safety, as well as the importance of improving police–community relations to ensure effective policing.

The relationship between police and Queensland's Indigenous communities is highly variable, depending on place, time, recent events and the particular police officers involved. Generally, however, it could be described as a relationship that is fragile, tense and volatile. Many members of Queensland's Indigenous communities continue to be distrustful and suspicious of police, and may often carry an expectation that Indigenous people will be treated unjustly and violently by police.

The relationship between Indigenous communities and police is lacking in trust and confidence to such an extent that even apparently small misunderstandings or miscommunication may result in a crisis of confidence and trust in the police, and perhaps even lead to riotous behaviour. The risk of a major event, such as a death in police custody, triggering such a crisis in relations is magnified.

However, strong relations are possible; we know that individual QPS officers have achieved this in a number of communities. The challenge for the QPS is to develop an organisational approach to improving relations with Queensland's Indigenous communities that will have a real effect on the way policing is carried out by all officers on the ground in these communities, regardless of the individual attributes of these officers. It is our firm belief that the 'tone must be set at the top' in this regard; in particular, it is vital that all OIC positions in Queensland's Indigenous communities are held by officers who can provide strong leadership in this area.

Building relations based on trust and confidence between police and Indigenous communities is worthy of priority. The development of positive relations with police in Queensland's Indigenous communities should be a more important focus for the QPS and for the communities themselves. For example, in South Australia and the Northern Territory (jurisdictions with comparable Indigenous communities), the leaders within those police services, including at the Commissioner level, are personally and actively engaged with Indigenous communities and periodically visit them in order to improve relations. In Queensland, in contrast, the Police Commissioner has been a regular visitor to both Mornington Island and Wujal Wujal, for which he was been the nominated Queensland Government Champion,[127] but high-level visits to the large number of Queensland's Indigenous communities are otherwise generally rare — see Appendix 2, which describes the Queensland Government's Champions initiative (April 2002).

➡ Action

Improving police relations with Queensland's Indigenous communities must be an ongoing priority:

- **the QPS needs to send a clear and constant message to Indigenous communities and to its officers that it takes the priority of improving relations very seriously**
- **the QPS must recognise that the issue of relations in these communities cannot be approached on the same basis as it is in other parts of Queensland**
- **the members of the QPS Senior Executive (that is, at the rank of Commissioner and Assistant Commissioner) must personally champion this priority across all of Queensland's Indigenous communities — for example, through periodic visits to talk with local police and community leaders about relations.**

127 In July 2009 new Government Champions were announced. The Commissioner of Police is now Champion for the Torres Strait Islands and the Assistant Commissioner Far Northern Region is now the Champion for Wujal Wujal. We are aware from consultations that the Assistant Commissioner Far Northern Region has on a number of occasions spent time while in that role in other Indigenous communities in his region.

➡ Action

Indigenous councils and other community leaders must consider that it is their responsibility to assist in building the community's relationships with police.

➡ Action

Strategies agreed by particular communities and their police to help improve relations must be documented in local-level plans so that progress is monitored and publicly reported.

While these suggestions are broad, we go on in this report to describe particular strategies that will help to achieve this overarching goal of improved relations.

Although such things are impossible to measure accurately, it is possible that the death of Mulrunji and its ongoing fallout have left what was already a sensitive relationship between police and Queensland's Indigenous communities in a more flammable state. In the aftermath of the death of Mulrunji, the risk of a major event in the future, such as a death in police custody, triggering a crisis in relations is likely to have increased.

Past events cannot be changed, but we do have choices about how we deal with the past as we move into the future. On Palm Island, despite the passage of almost five years, the justice processes associated with the death of Mulrunji are continuing and tensions remain. In so far as it is possible, the Queensland Government must give high priority to finalising all outstanding litigation and other proceedings on foot regarding this matter. After all outstanding litigation has been finalised, it may be that the community, the Queensland Government and the police need to consider taking specific steps to repair some of the damage caused to relations. We cannot, however, dictate what these steps should be.

➡ Action

That, in so far as it is possible, the Queensland Government give high priority to the finalisation of all outstanding litigation relating to the Palm Island matter; the goal should be to have all outstanding matters settled by the sixth anniversary of Mulrunji's death, in November 2010. After the litigation is finalised, the Queensland Government, the QPS and the Palm Island community should consider what specific steps can be taken to help move forward on Palm Island.

In this chapter we have focused on understanding the state of relations between the police and people in Queensland's Indigenous communities. We turn now to consider various arguments about the underlying causes of the tension that exists in these relations.

8

OVERPOLICING, UNDERPOLICING AND HIGH CRIME

Although there are many causes of tension in relations between Indigenous communities and police in Queensland's Indigenous communities, the notion that a large contribution is made by overpolicing, or policing that is perceived to be discriminatory, unfair or unduly oppressive, has been influential. At least since the Royal Commission, this notion forms the basis for much of the government's policy to deal with Indigenous overrepresentation in the criminal justice system and to improve relations with police (see Chapter 2).

In contrast, in Queensland's Indigenous communities there has also been a history of concern being raised about inadequate policing services and the policing response being provided to the serious problems of crime and violence experienced in these communities.

It has also been suggested that the tension in relations in these communities may be less a result of the nature and extent of policing itself, and more the result of the fact that these are high-crime communities and high levels of crime generate much of the 'heat' in relations with police.

This chapter provides a description of the arguments about the respective effects of overpolicing, underpolicing and high crime on relations. It then describes the community views put to our inquiry, which express a general desire for police to provide more policing rather than less, but which also caution against heavy-handed policing.

Overpolicing

The notion that tensions may be largely the result of the extent and nature of policing itself typically suggests that tensions rise as a result of overpolicing — that is, what is perceived as discriminatory, unfair or unduly oppressive policing. (In Chapter 4 we have already touched on the notion of overpolicing in so far as it is relevant to interpreting how 'real' the high levels of reported crime in Queensland's Indigenous communities are.)

Overpolicing of Indigenous communities is said to involve:

- a large police presence (relative to the population size)
- the use of strategies such as constant patrolling and intense surveillance to police the highly visible 'social and cultural' behaviour of Indigenous people that occurs in public places — that is, the enforcement of often minor public order offences
- the frequent use of specialist police to control these communities (such as tactical response groups).

Police are therefore said to intervene too frequently in the lives of Indigenous people and to have a criminalising effect (Cunneen 2001a, 2006, 2007a; HREOC 2001).[128]

128 Arguments about overpolicing often draw little distinction between those communities where the Indigenous population forms the vast majority of the population, such as Queensland's Indigenous communities, and those Indigenous communities that form part of urban and regional centres and country towns (see, for example, Cunneen 2001a). It is perhaps the case that the arguments about overpolicing have greater applicability in the latter areas; we have not explored this question in this inquiry.

The exercise of police discretion in public order policing lies very much at the heart of the argument about overpolicing. We have already referred in Chapter 4 to the research evidence showing that Aboriginal people are highly overrepresented for offences that rest heavily on the exercise of police discretion, such as offensive language and behaviour offences and other 'police offences'[129] such as resist, obstruct, assault police (see Cunneen & Robb 1987; Jochelson 1997, Johnston 1991, vol. 2, pp. 200–202; CMC 2008). Research also shows that Indigenous people more frequently have other discretionary police decisions made against them, such as the decision whether or not to caution or charge an offender (see Cunneen, Collings & Ralph 2005).[130]

The Royal Commission argued that Indigenous people were overpoliced. It suggested that:

- relations between Aboriginal people and police were a key factor in determining the number of Aboriginal people in custody (Johnston 1991, vol. 2, p. 194)
- a great deal of police intervention in the lives of Aboriginal people is not in response to 'serious crimes' or 'harmful conduct' but results from alcohol-related street offences (Johnston 1991, vol. 2, p. 194)
- many of these offences would not occur, or would not be noticed, were it not for the adoption of particular policing policies that concentrate police numbers in certain areas and concentrate police effort on the scrutiny of Aboriginal people (Johnston 1991, vol. 2, p. 200)
- most conflict with Aboriginal people arises from police endeavours to enforce 'street offences' and this 'seeks to impose on Aboriginal people the views of European culture about the appropriate use of public space' (Johnston 1991, vol. 1, p. 199)
- Aboriginal notions about appropriate behaviour in public space include the kinds of behaviour likely to bring them into strife with the police — socialising and drinking in the open, lingering outside shops, sitting on the ground in the street, fighting and loud disputation;[131] non-Indigenous laws transform these legitimate behaviours into non-legitimate and deviant behaviour (Johnston 1991, vol. 1, pp. 199–200).

If the arguments about overpolicing are accepted, it follows that the relationship between police and Indigenous people can be characterised as one of resentment and provocation that can spill over into open confrontation. At the extreme, within this framework of overpolicing, police can be seen as an 'army of occupation', Aboriginal people can be seen as 'political prisoners' and offending can be likened to 'acts of resistance' against non-Indigenous institutions and authorities (see Cunneen 2001a, pp. 4, 42–3).

The answer suggested by the Royal Commission focuses on raising the threshold for police intervention in the lives of Indigenous people, particularly in relation to public order offences. It said that drunken behaviour on the street should not lead to arrest but rather there should be a range of alternative responses put in place, including that police should respond with tolerance and through negotiation (p. 201) (see also Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999, pp. 97, 218 & 220; Fitzgerald 2001, p. 152).

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129 It is often suggested that public order offences such as offensive language and behaviour offences, or those associated with public drunkenness, are also 'police offences' — that is, they are otherwise victimless crimes (see, for example, Cunneen 2001a, p. 29). However, other research shows that public nuisance offences, for example, are often not 'police offences' in the sense that police are frequently asked by members of the public to take some action (see CMC 2008).

130 However, it can be debated to what extent this involves police discrimination or rather reflects the distinct patterns of Indigenous offending, including higher rates of re-offending, non-compliance with community-based sanctions and other 'offences against justice processes' such as breach of bail and failure to appear in court (Weatherburn & Fitzgerald 2006; see also Broadhurst 2002).

131 Marcia Langton's (1988) article 'Medicine square', for example, provides evidence that in traditional Aboriginal society controlled violence and loud disputation in public may well be appropriate, even preferred, methods for resolving disputes. However, the Royal Commission acknowledges that, because of the increase in 'uncontrolled violence' associated with new factors such as alcohol, arguments that violent behaviour is justified or condoned by Aboriginal people in their own culture should be approached with a great deal of caution (Johnston 1991, vol. 2, p. 203).

A number of submissions to our inquiry made reference to the arguments about overpolicing and suggested that changes were needed in the nature and extent of policing in order to rectify this problem (submissions of ATSILS (Qld Sth), p. 5; JCU Law School, p. 11; Levitt Robinson Solicitors, p. 1).

Underpolicing

Another argument — one that has perhaps received less attention — is that tensions may be largely the result of the extent and nature of policing itself, but because of underpolicing rather than overpolicing. Underpolicing may be characterised by, for example, a chronically poor or unhelpful response to calls for police assistance.

There has been a history in Queensland of criticism from the Indigenous communities themselves about the inadequate provision of policing services to Indigenous communities and, in particular, of police failure to respond to serious violence, especially that committed against Indigenous women.[132] For example:

- the report of the Aboriginal and Torres Strait Islander Women's Task Force on Violence stated that many women were concerned that police were ignoring their calls for help and this was seen as increasing their risk of serious harm (1999, pp. 226–32)
- the Cape York Justice Study reported that 'the most common criticism of police was that they did not adequately deal with serious offenders', especially regarding family violence and especially where incidents occur after hours (Fitzgerald 2001, p. 180).[133]

The inadequate level of policing services provided in the past, at least in some Indigenous communities, was highlighted in a coronial inquest into a death that occurred in a community police van (Barnes 2005), and the QPS has acknowledged the significant challenges involved in providing an adequate level of policing services in the Torres Strait Islands (see submission of the QPS, p. 2).

It follows that, if there is a lack of an adequate policing service or policing response, or if there are perceptions of such, community people may feel they are being treated like 'second-class citizens' by police.

High crime

An alternative explanation is that tensions with police may largely be a direct consequence of policing high-crime communities, because of:

- the high levels of interaction with police, particularly at the 'sharp end' of police practices
- a high level of fear or anger about crime in such locations, and heavy reliance on police, perhaps even an overreliance
- widespread anxiety about the possibility of being arrested, detained and possibly imprisoned for involvement in crime (see Weatherburn 2006, p. 24).

As stated by Professor Don Weatherburn, in high-crime communities it may be the case that relations with police can only be substantially or sustainably improved by addressing the crime problem that generates the 'heat' (Weatherburn 2006; see also Weatherburn, Fitzgerald & Hua 2003).

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132 The Royal Commission also noted that in remote Indigenous communities there was a question about 'whether the policing provided is adequate and appropriate to meet the needs of those communities, and in particular, to meet the needs of women in those communities' (recommendation 88, Johnston 1991, vol. 3, p. 43).

133 The report notes Cunneen's arguments that police inaction must be considered in the historical context of colonial relations, where Aboriginal women have been subjected to violence and sexually exploited. However, it also notes that police consulted indicated their willingness to target family violence.

A clear message: Queensland's Indigenous communities want 'more' policing, not less

As discussed in Chapter 6, Queensland's Indigenous communities have a high ratio of allocated police numbers to population (and we have noted that in some cases the communities themselves continue to request more police). As discussed in Chapter 4, Queensland's Indigenous communities also have high rates of 'other' offences and these rates are driven by the high rates of good order or public order offences.

However, for people we met in Queensland's Indigenous communities, the dominant concern was about inadequate and unresponsive police services rather than about overpolicing and incarceration rates. As one man put it when the meeting was asked if the community experienced overpolicing: 'those bleeding hearts down south say there is overrepresentation of Indigenous people in the justice system so it must be overpolicing, but you tell them that we say it is underpolicing, there is not enough policing in our community!'.

A strong view expressed during our consultations was that most people would like to see police doing more, not less. People wanted a more responsive policing service in a range of ways; for example, people often said they wanted more police, for police to be available when needed, and a faster police response to calls for service. People also often complained that they wanted more punitive approaches — that is, they often wanted more done about crime and safety, including enforcement, and arrest and detention of offenders.

The primary motivation for community members' desires for more policing, not less, was that overwhelmingly people believed that their communities currently were not safe and peaceful. People in Queensland's Indigenous communities consistently and frequently raised their concerns about crime levels, public order and safety issues. This was the key theme from the community consultations. There was a general feeling that the whole approach to tackling crime and order problems should be improved.

Across Queensland's Indigenous communities, people's very high levels of concern about high crime levels and safety issues often translate into a heavy reliance on police — and sometimes their expectations of police are too high. For example, many people expected local police stations to operate on a 24-hour basis and for local police to always be available to respond to their calls, regardless of the circumstances.

An important caveat to this message: the dangers of overpolicing are real

The message to our inquiry from Queensland's Indigenous communities was a desire for 'more' policing rather than less, and for policing services to be more responsive in a range of ways. However, there was an important caveat provided to this view about the problem being one of underpolicing, not overpolicing: communities were insistent that policing must be carried out in a particular style if it is to succeed and not in a way that would exacerbate tensions.

We heard at many of our meetings that people were resentful of certain policing strategies that have featured in the overpolicing arguments, such as the deployment of regional tactical crime squads[134] in their communities — known locally as 'blue blitzes' (see Chapter 9 for further discussion of tactical crime squads). The policing of AMPs is also seen, by sections of each community at least (those who are pro-alcohol and anti-restrictions), as a form of overpolicing in that it involves a discriminatory form of police harassment (see the further discussion in Chapter 9 of policing alcohol restrictions).

134 Tactical crime squads are units formed to focus on particular local crime problems within the region. Numbers of officers in these roles have increased as successive state governments have allocated funding for new squads throughout Queensland. (These squads should not be confused with tactical response groups such as SERT and PSRT which deal with sieges and other major incidents or events).

Other than general concerns relating to the use of tactical crime squads and policing of the AMPs, perception of overpolicing appeared to relate to specific incidents rather than a suggestion that police were guilty of overpolicing the communities in general. The arrest of Mulrunji, discussed in the accompanying text box, provides a universally known example of what was arguably an incident of overpolicing, which had tragic and devastating consequences, but which does not accurately reflect a general pattern of policing. Nonetheless, this single highly publicised arrest, which ultimately led to a death in custody, is likely to have a far greater impact on relations than overall patterns of arrest.

The arrest of Mulrunji

It is well known that Mulrunji's arrest was for the least serious kind of public order incident — that is, for offensive language only. He is frequently described as having 'gone for a song' or for 'just swearing at a policeman' (Hooper 2008; Waters 2008).

Previous research conducted by the CMC (2008) suggests that arrests such as that of Mulrunji for minor public nuisance behaviour involving only offensive language are not common — that is, the Mulrunji arrest is not representative of 'usual' arrests for public nuisance in Queensland, and arrests for offensive language only are relatively rare. In Chapter 4 of this report we presented other evidence that also indicates that public order charges in Queensland's Indigenous communities are not mainly used for such minor behaviours, but are most frequently used to respond to violence or threats of violence.

Summary and conclusions: high crime largely generates tensions

In the face of the strong community views provided to the inquiry that expressed the desire for more policing rather than less, we cannot say that these communities are generally overpoliced. The communities themselves clearly and consistently were focused on the desire for safe and peaceful communities, and their message was one of wanting to see police being more responsive and doing more rather than less, in order to enhance the safety of their communities.

Consistent with the concerns of community members, evidence presented in Chapter 4 shows that Queensland's Indigenous communities have a serious, entrenched and very real crime problem. Also consistent with community views is the discussion of public order offences we presented in Chapter 4, suggesting that these charges frequently result from police responding to alcohol-related violence or threats of violence, rather than police responding to 'harmless' drunken behaviour. Community consultations strongly suggested to our inquiry that the policing response to such violent and threatening behaviour is thought to be both necessary and desirable by most people in the communities themselves.[135]

It is our conclusion that the picture that emerges in Queensland's Indigenous communities appears to be substantially different from the general pattern noted at the time of the Royal Commission. Importantly, community views about the problem being primarily one of underpolicing rather than overpolicing were closely linked to concerns about the high levels of crime and community safety in Queensland's Indigenous communities.

135 Even at the time of the Royal Commission it is possible to identify some acknowledgment that a proportion of public order matters were in fact police responding to 'drunken fighting' and violence that were matters of community concern (rather than what was otherwise characterised throughout the report as 'harmless' behaviour and the imposition of non-Indigenous laws and values by police) (Johnston 1991, vol. 2, pp. 196–7). The Cape York Justice Study also noted that some Indigenous people had indicated that they were concerned about drunk and disorderly behaviour — screaming, swearing and fighting occurring in the street — and that they expected such people to be removed by police (Fitzgerald 2001, p. 180).

There is little evidence to allow us to test community perceptions of the inadequate police response. For example, there are no readily available data to indicate the frequency and timeliness of the police response to calls for assistance, and the appropriateness of this response in the circumstances.[136] Despite these difficulties, the very fact that the perception is so widespread and is a key factor affecting relations would seem to suggest that action is warranted, even if such action is primarily aimed at changing perceptions. We consider this matter further in Chapter 9.

Ultimately, it is our view that the most significant thing that can be done in the long term to improve relations with police, and to reduce Indigenous overrepresentation in the criminal justice system, is to reduce crime. Achieving this will require significant change; a much better focus on crime prevention is needed from police, other criminal justice system agencies, and other agencies more broadly, in the development of policy approaches. Indigenous people, organisations and communities must be central in this process. We continue to develop this discussion about crime prevention throughout the remainder of this report.

➡ Action

That the focus on effective crime prevention in Queensland's Indigenous communities should be greatly increased and improved.

Although this suggestion is broad, other actions throughout this report describe particular strategies that will help to achieve this overarching goal (see, for example, Part 4).

Though it is our conclusion that the greatest improvement of relations in the long term will be brought about by reducing crime levels in these communities, this should not be taken to mean that there are no steps that can be taken now to improve relationships between police and Indigenous communities. Indeed we think it is imperative that a range of things that can be done are done immediately.

There is little doubt that incidents of overpolicing, when they do occur, have the potential to seriously inflame tensions. Public order policing, including the policing of alcohol restrictions in these communities, will remain one key area in which overpolicing may occur. Overall patterns of crime and arrest may have less impact on perceptions of overpolicing, and on relations, than a single highly publicised incident. For example, the fact that, in the very high-profile case of Mulrunji, he was arrested for the most minor kind of public nuisance behaviour — offensive language only — may understandably lead people to believe that these communities are overpoliced, and to resent police, despite the fact that arrests for these types of minor public nuisance offences are relatively rare.

➡ Action

That the QPS clearly communicate to police working in Queensland's Indigenous communities:

- **the need to be keenly aware of the dangers to relations associated with incidents of overpolicing**
- **that violence or threats of violence may frequently warrant police intervention and police can appropriately exercise their discretion as to whether such behaviour can or should be charged as a public order offence or some other more serious criminal charge**

136 It is not easy to ascertain from QPS data systems how many calls for service were received in each location over a given period, the nature of the calls (emergency and so on), whether the call was answered locally or diverted, the number of calls discontinued, or the nature and time frame of the police responses. Also we would not be able to identify instances where callers from Indigenous communities discontinued the call.

- that the greatest risks in relation to public order offences attach to the policing of those behaviours that are at the most minor end of the spectrum — for example, offensive language only, especially where this language is directed at police.

That the QPS undertake ongoing monitoring of these aspects and encourage officers to use their skills to 'de-escalate' public order situations, particularly those at the most minor end of the spectrum.

The challenge for police is to provide more policing in a way that is unlikely to increase tensions, damage relations and perhaps even lead to more crime, but rather that will increase trust and confidence in police and reduce crime (see Chapter 9).

9

HOW CAN 'MORE' POLICING BE PROVIDED IN A WAY THAT IMPROVES RELATIONS?

In Chapter 8 it was our conclusion that the most important thing that can be done in the long term to improve relations with police in Queensland's Indigenous communities is to reduce crime. We also noted that the people in Indigenous communities we consulted were overwhelmingly more concerned about perceived underpolicing and lack of police responsiveness than about overpolicing and incarceration rates. A key message given by members of Indigenous communities was one of wanting police to do 'more' rather than less policing, to make their communities safer and more peaceful. This message, however, should not be interpreted as a green light for heavy-handed policing.

The challenge for police is to provide 'more' policing in a way that is unlikely to increase tensions, damage relationships with police and perhaps even lead to more crime. Weatherburn (2006, p. 29) describes it in this way:

> **The immediate challenge when dealing with high crime communities (especially in the wake of a riot), then, is to find ways of pursuing what are known to be effective policing strategies without engaging in policing that is provocative, discriminatory or unduly oppressive.**

Noel Pearson (2007, pp. 2–3) articulated a similar argument in the wake of the death of Mulrunji and riots on Palm Island:

> **Contrary to what might be assumed to be a conclusion from the Palm Island case, policing needs to be more, not less, active. But it must be a policing that is owned and identified with by Indigenous people who want to restore order and peace to their communities. It must be a policing that has as its objective the restoration of social norms.**

This chapter therefore seeks to answer two key questions:

1. **What can police do to effectively control crime? That is, what strategies are known to be effective?**[137]
2. **How should they go about policing so as not to damage relations, but to improve them?**

137 It is difficult to scientifically test the crime prevention impact of police practices. Sherman and Eck (2002, p. 301) note that there is a great deal of natural variation in police practices and that control over police practices is difficult for police administrators under normal conditions, let alone under experimental protocols. Measuring the many dimensions of police activity, from effort to manners, is expensive and often inaccurate. They state that 'only a handful of studies have managed to produce strong scientific evidence … But the accumulated evidence of the more numerous weaker studies can also provide some insights on policing for crime prevention' (p. 301). It should be noted at the outset that much of the available research evidence comes from overseas and was conducted in places that are very different from Queensland's Indigenous communities. It cannot be assumed that the results of such studies would be replicated here. Nonetheless, we must consider the best available evidence of what might work to prevent crime if we are to inform policing strategies in a rational and systematic way.

In this chapter we consider some of the major policing strategies most relevant to policing in Queensland's Indigenous communities. These are:

- **community policing**
- **problem-oriented and partnership policing**
- **patrolling**
- **arrests**
- **sport and recreation programs.**

We consider the research evidence for the effectiveness of each of these strategies (particularly in relation to their crime prevention effectiveness) and we consider how they might be implemented in the light of what we were told during our consultations with communities and police.

Community policing

What is community policing?

Although there is no single definition or model of 'community policing', it describes a particular style of police engagement with the community that views public cooperation as essential to successful crime control; it seeks to improve the quantity and the quality of contact between police and citizens in order to reduce crime (Sherman & Eck 2002, p. 296). Community policing provides an umbrella for many strategies

> … encouraging the public to become partners with the police in controlling and preventing crime. It does this by demonstrating to the public that police are prepared to respond to their security concerns, value their advice, and will act in a fair, honest and impartial manner. In exchange, police ask the public to assist them by providing information about crime, criminals and circumstances that create crime, and by contributing their time, resources, and moral support for crime prevention programs. (Bayley 2005, p. 3)

Common strategies associated with the notion of community policing include neighbourhood watch programs, foot patrols and enhancing the exchange of information between police and the public through 'shopfront' stations, door-to-door visits, newsletters and community meetings.

Is community policing effective?

The wide range of strategies under the community policing umbrella make it impossible to evaluate the effectiveness of community policing as a general approach (Skogan & Frydl 2004). Nevertheless, research suggests that the individual strategies that make up community policing are generally ineffective in reducing crime and disorder; there are, however, some important exceptions.

Strategies to enhance the exchange of information

Specifically, there is little evidence that neighbourhood watch programs, foot patrols and many tactics designed to enhance the exchange of information between the police and the public (including 'shopfront' stations, newsletters and community meetings) reduce crime and disorder problems. For example, overseas evaluations of police 'shopfronts' (which are often requested by communities), staffed during business hours by a mix of sworn police, paid civilians and unpaid volunteers, consistently show no impact on crime. Similarly, the CMC's evaluation of police 'shopfronts' in Queensland indicated that they had no effect on overall rates of reported crime or shoppers' and retailers' feelings of safety, though they did increase visibility and awareness of police (Mazerolle et al. 2003). Sherman and Eck (2002, p. 317) conclude: 'While there are some positive citizen evaluations associated with storefronts, the problem of staffing the offices once they are open may counterbalance any non-crime benefit.'

Door-to-door visits

In contrast, one community policing practice aimed at enhancing the exchange of information — that of door-to-door visits during the daytime by police — has been shown to often be effective in reducing crime.

When this strategy has been tested in the United States, such visits have sought information (such as about who is carrying guns) or have provided it (such as burglary reduction tips or advice on how to deal with domestic violence), or have simply introduced local police to local residents to make policing more personal. Sherman and Eck (2002) report that four out of seven tests of such practices show 'modestly strong evidence of substantial crime prevention'. The prevention effects were primarily for car break-ins and other major property crime. However, they also report that the benefits of the program were highly concentrated among white middle-class homeowners, with virtually no benefit for Asian, Hispanic and African-American minorities living in the target area — they conclude therefore that door-to-door visits might be ineffective as a general prevention strategy (Sherman & Eck 2002, p. 317; Skogan & Frydl 2004).

One of the door-to-door experiments, which was conducted in the United States in the context of a major scandal about police beating to death a Mexican immigrant, found that fear of police was reduced after door-to-door visits by police (Wycoff et al. 1985, cited in Sherman & Eck 2002, p. 318).

Neighbourhood beat policing

Beat policing is a specific community policing strategy 'designed to make an individual police officer responsible for the community's policing needs in a defined geographical area (the beat)' (Mazerolle et al. 2003, p. 1). Two main models of beat policing are the police 'shopfronts' (discussed above) and neighbourhood police beats, which involve a police officer living and working within the beat. Key features of neighbourhood beat policing are:

- the use of proactive, problem-oriented policing activities designed to target the causes of specific crime and disorder problems in the community
- a focus on developing strong relationships with the community, having personal interactions with community members, and increasing community involvement in crime prevention and other policing activities
- an emphasis on effective responses to calls for service
- a focus on patrols.

Importantly, there is some evidence to suggest that neighbourhood beats are effective at reducing crime and disorder problems. For example, the CMC's evaluation of beat policing in Queensland showed that there were generally lower rates of reported crime in neighbourhood beats, as well as reductions in the long term in calls for service and chronic repeat calls for service (Mazerolle et al. 2003). Neighbourhood beats were also strongly supported by residents within the beat, and helped to increase knowledge and awareness of policing activities among community members. They were not, however, found to have any impact on citizens' satisfaction with policing, perceived crime and disorder problems, sense of personal safety, or willingness to report crime (Mazerolle et al. 2003).

Strategies aimed at enhancing police legitimacy

In contrast to the evidence generally about policing practices focused on enhancing the exchange of information, there is research suggesting that community policing strategies aimed at improving police legitimacy are effective in preventing crime (Sherman & Eck 2002, p. 318). A particularly important factor that influences police legitimacy is the perception of procedural fairness — for example, whether people perceive that they were treated in a fair way, whether

they think they were treated with respect and dignity, and whether they believe concern was shown for their views and arguments about the incident (see Hinds & Murphy 2007; see also Mastrofski 1999).[138]

This body of research suggests that increasing police legitimacy in the eyes of community members may encourage compliance with the law and subsequently reduce crime. For example:

- research has shown strong correlations between perceptions of police legitimacy and self-reported willingness to comply with the law (Tyler 1990; Tyler & Huo 2002)
- a re-analysis of the Milwaukee Domestic Violence Experiment found that repeat domestic violence was lowest among arrestees who thought police had treated them respectfully; a powerful preventive effect on recidivism was associated with police taking the time to listen to the offender's side of the story (Paternoster et al. 1997, cited in Sherman & Eck 2002, p. 318).

It has also been suggested that the effects of an arrest for a minor offence may permanently lower police legitimacy, both for the arrested person and for their social network of family and friends. Arrest in such situations may be perceived as arbitrary or procedurally unfair, may make arrestees more defiant and may be associated with a high official recidivism rate (see Sherman & Eck 2002, pp. 310 & 315) (see below for further discussion of the research evidence on the effectiveness of arrest).

Research also suggests that police officers can increase police legitimacy by increasing the perceived fairness of the processes they use to make decisions and exercise authority:

- A recent Australian study shows that people who believe police use procedural fairness — that is, a fair process when they exercise their authority — are more likely to view police as legitimate and in turn are more likely to be satisfied with police services (Hinds & Murphy 2007; see also Bradford et al. 2009).
- Preliminary results of a randomised experiment with community accountability conferences, used by the Australian Federal Police in Canberra as an alternative to prosecuting juveniles, show that this police-officer-led process greatly increased respect for police and perceptions of justice, regardless of the outcomes (Strang 1996, cited in Sherman & Eck 2002, p. 318).

These studies indicate that the process rather than the outcome is frequently what matters most to people in their dealings with the police. As Skogan states in relation to police contact with victims:

> Police are judged by what physicians might call their 'bedside manner'. Factors like how willing they are to listen to people's stories and show concern for their plight are very important, as are their politeness, helpfulness and fairness. (2006, p. 104; see also Mastrofski 1999).

Effectiveness in reducing fear of crime

Finally, there is also some evidence that the increased accessibility and visibility of police brought about by community policing strategies may have a positive impact on fear of crime. The Police Foundation (cited in Skogan & Frydl 2004), for example, found that greater direct contact between the police and the community often reduced residents' fear of crime and concerns about neighbourhood crime problems. Again, however, these positive effects may not apply equally to all groups — Brown and Wycoff (1987, cited in Skogan & Frydl 2004) found that community contact patrols and community stations did not reduce fear of crime

138 Other factors, such as how well police control criminal behaviour, or provide a credible risk of detection and sanction for those who break the law, may also contribute to police legitimacy, but research shows these to be less influential than questions of procedural fairness (Hinds & Murphy 2007).

among African-Americans. An American Committee to Review Research on Police Policy and Practices considered this research and concluded that community policing activities that increase citizens' contact and involvement with police show promise in reducing fear of crime (see Skogan & Frydl 2004). It should be noted, however, that there is evidence suggesting that Neighbourhood Watch increases fear of crime (see Skogan 1990, cited in Sherman & Eck 2002, p. 317).

So what can community policing offer to policing Queensland's Indigenous communities?

To summarise, the evidence regarding the effectiveness of community policing strategies suggests:

- while they may be popular with citizens, and often are found to improve citizens' perceptions of police, most community policing strategies that focus only on increasing the flow of information between police and citizens do not appear to be effective in reducing crime; door-to-door visits are the exception
- strategies focused on improving police legitimacy, or public confidence in the fairness of police, help to prevent crime
- some, but not all, community policing strategies show promise in reducing fear of crime.

Despite the limited crime prevention value of some strategies associated with community policing, evidence shows that the notion of community policing can still provide valuable insights to inform the policing of Queensland's Indigenous communities, in terms of both improving relations and reducing crime. Research on the effectiveness of community policing provides evidence of what many Indigenous people in Queensland have been saying for a long time — that the way police exercise their authority is crucial (see Graham 1993). Of most relevance to Queensland's Indigenous communities are these two points:

- The evidence shows that community policing strategies can be effective in improving relations and promoting positive perceptions of police.
- In terms of producing a crime prevention effect, the evidence underscores the importance of policing in a fair way, treating people with respect, and showing concern for the views of offenders about the incident.

How has community policing been applied in Queensland's Indigenous communities?

The QPS for some years now has recognised that developing strategies for policing Indigenous communities involves unique challenges and that in order to enhance relations 'a high degree of community consultation and involvement is required' (QPS 1994, p. 13).[139] Although it does not form a specific component of police academy training in Queensland, since the early 1990s the community policing philosophy has been an important influence on the QPS approach to improving the connection between police and Queensland's Indigenous communities and allowing greater community involvement in identifying and dealing with crime problems.

139 The QPS's *Review of Policing on Remote Aboriginal and Torres Strait Islander Communities* (1994) considered aspects of community policing, including the role of Indigenous community police (see Chapter 10 for further discussion of Indigenous people in policing roles) and increasing the involvement of communities in solving law and order problems (QPS 1994).

There are a number of major catalysts that encouraged a shift toward community policing in Queensland's Indigenous communities over the last few decades:

- the Fitzgerald Inquiry (1989) recommendation that community policing become the primary policing strategy in Queensland[140]
- the Royal Commission into Aboriginal Deaths in Custody recommendations that police services should increase their focus on community policing to provide Indigenous people with 'a real say at the local level in how their community is policed' (see recommendations 88, 214, 215 and 220, Johnston 1991, vol. 4, pp. 80 & 85)
- the recommendation of the 'Bingham review' of the Queensland Police Service that community policing 'be clearly articulated as a basic philosophy of the QPS' (Bingham 1996, p. 198).[141]

The QPS has publicly reported that it has 'implemented' the community policing philosophy in response to the recommendations of the Royal Commission. The establishment of new structures, such as new units and positions within the QPS, and the creation of community consultative committees,[142] have been central to the QPS's implementation of community policing (DICMU 2001, pp. 436 & 461; 2002, vol. 2, pp. 420 & 451; see also Tyler & Jeans 1992). OIC position descriptions in Queensland's Indigenous communities do not include specific requirements in relation to community policing, although there is a reference to the need to be able to 'establish and maintain effective communication with all stakeholders', for example.

Others, however, have claimed that 'the evidence does not suggest that community policing has been successfully implemented in Indigenous communities' (Mazerolle, Marchetti & Lindsay 2003, p. 93). Although the QPS continues to emphasise in its strategic documents the importance of being preventive and working in partnerships, it does appear that there is now less explicit emphasis on the notion of community policing than previously (see, for example, QPS 2008b). There are a number of possible reasons for this:

- the underlying community policing philosophy may simply have become part of how the QPS does its business
- the community policing philosophy may have fallen out of favour with the QPS
- the influence of community policing may have waned because of the research evidence (outlined above) showing that in general community policing is ineffective in reducing crime.

140 This referred to shifting the focus from traditional reactive policing activities to more proactive strategies, developing a strong partnership between the public and the police, and involving the community in crime prevention. The Fitzgerald Inquiry emphasised the need for the police to deliver flexible services tailored to the needs of specific communities, as well as the development of community-based crime prevention programs. The inquiry also suggested that community crime committees be established to assist with achieving these goals; it was proposed that these committees would help to enlist community support for police activities, identify community needs and communicate them to police, and encourage information sharing between the community and the police. The inquiry noted that, in Aboriginal communities, police staff with special cultural and language skills would be needed to ensure the community's acceptance of and cooperation with community policing.

141 This report noted the importance of the police using local communities to proactively identify and address community problems and involving the community in preventing crime. The use of beat policing (where appropriate) was especially emphasised.

142 The QPS established 13 Community Consultative Committees in response to the recommendations of the Royal Commission. They have since been disbanded and a more recent initiative is the creation of about 18 Indigenous Community Policing Consultative Groups (ICPCGs) across Queensland. However, these initiatives are of little relevance to the Indigenous communities dealt with in this report; of these communities, only Palm Island has an ICPCG.

Whether it is referred to as 'community policing' or not is not important in our view. However, what we heard from community members during our consultations emphasises the need for the QPS to revisit two principles that are central to the philosophy of community policing:

1. Enhancing community involvement in policing and being more responsive to community concerns in a range of ways
2. Promoting police legitimacy through a new focus on improving perceptions of fairness and procedural justice.

Enhancing community involvement in policing

We have identified the following key areas in which enhancing community involvement in policing may help to close a gap that exists between the police and community views:

- crime priorities
- availability and responsiveness of police
- informal interaction with police.

Crime priorities

Police priorities were criticised at the majority of our meetings in communities. People generally believed that the police focus is on responding to serious crime after it occurs, and enforcing alcohol and traffic laws. Police were often said to place too low a priority on other problems that are important to the community.

During our initial consultations we asked people to nominate the main crime problems in their community. The following three priorities were identified:

1. People were typically most concerned about violence. The high level of violence, including 'violence, domestic violence, fighting and assaults', was consistently the first 'crime problem' identified at our meetings. The topic of violence usually generated considerable discussion, often leading to the raising of issues such as lack of police responsiveness, inadequacies of the criminal justice system, and the policing of alcohol restrictions (see the further discussion of these matters below). A number of people who attended our community meetings, mostly women, bore the physical scars of the violence they were talking about; this is not a common sight in other parts of Queensland.
2. Noisy parties and 'loud music' were also consistently identified as a problem in the Indigenous communities we visited.[143] The parties were said to often go on for days and were seen as a problem not only because the continual loud noise upsets other people in the community but also because of the behaviours associated with them — the drinking, fighting and assaults, and drink driving — and the effects on the children living in the 'party houses' or nearby. We were told that the children are at risk of violence or abuse, they are unable to sleep, they may have to stay away from the house, they roam around at night, and they either do not go to school or they cannot stay awake in class.

   We observed noisy parties occurring at two communities while we visited. At one of our community meetings the music from a nearby house was played so loudly that it could be heard across the whole town. We were told that it had been playing continuously for several days and nights. At another community, Elders voiced their concerns about a noisy party that had started before the weekend and was still going on during our meeting on the Monday. Referring to the effects on people living in the vicinity, an Elder said: 'Them kids get no sleep, how they gonna be at school?' The same Elder also claimed that the party was run by a known sex offender trying to entice children to his 'disco'.

143 More recent consultations indicated that further alcohol restrictions had made a difference. People commented that their community was now 'quiet'.

3. Other problems almost always nominated were property damage and theft. Young people, or more particularly a proportion of young people, were identified as the usual perpetrators of property damage and theft. We were told at several meetings that 'it's always the same families, it's always the same kids' and that the behaviour of these children and young people was linked with the problems of truancy from school, 'party houses' and poor parenting.

   People described their disappointment about vandalism and property damage. They referred to the cost of repairs, which was said to frequently prohibit repairs being made. Vandalism was said to have caused the closure of community facilities such as sports centres and disruption to local businesses such as the community store. We were told that the people who worked to build or support those facilities and services felt deflated and defeated when this happened. One woman summed up the feelings expressed when she said 'It is just so disheartening.'[144]

It is noteworthy that child sexual abuse did not emerge as one of the main crime problems nominated. This was the case despite the considerable media attention being paid to this subject at the time of our visits (associated with the Australian Government intervention in the Northern Territory in a response to the *Little children are sacred* report (Wild & Anderson 2007)). The concerns raised about the neglect or safety of children at 'party houses' were the only references made to child abuse. This may reflect people's reluctance to raise the problem in a public forum with us, as the matter was raised in telephone submissions we received from people living in the communities and in written submissions (submission of a number of individuals who were QATSIP officers, p. 5).

Some community members were worried that the police focused too much on policing alcohol restrictions (see below) at the expense of other priorities or activities. This concern was usually related to the issue of police responsiveness to calls for assistance — the message was that the police will not come when called, but that they are able to spend a lot of time chasing people about grog. (The efforts of police to enforce alcohol restrictions are motivated by the desire to reduce alcohol abuse and the related violence, but some people in communities either did not make that connection or rejected it.)

Our inquiry also asked local police to identify the main crime problems in their communities. The responses of police OICs across all stations were very consistent; they identified the following three priorities:

- first, alcohol-related offences, including offences related to the AMPs and other alcohol-related family violence and assaults — note that, as a matter of Queensland Government policy, police in Queensland's Indigenous communities are required to give high priority to the policing of alcohol restrictions (Queensland Government 2008)
- then youth-related offences, specifically vandalism, theft and substance abuse
- finally, traffic offences.

Child sexual abuse and neglect were sometimes nominated, but notably only by police at locations where detectives were stationed (such as at Murgon, Palm Island, Weipa, Thursday Island and Mornington Island/Doomadgee). Such detectives are trained in child protection investigations and have a focus on child abuse.

144 The main crime problems nominated during our consultations in Queensland's Indigenous communities, including violence and noisy parties, are different from those identified by Queenslanders generally in other research. For example, respondents to the ABS's 2005 Crime and Safety Survey were asked to indicate the problems they perceived in their neighbourhood, and Queensland respondents most commonly identified dangerous and/or noisy driving (41.7%), followed by housebreakings, burglaries and thefts from homes (29.4%), and vandalism, graffiti and property damage (18.8%). Problems such as noisy parties and violence were well down the list for Queenslanders generally (ABS 2005).

Effects on community relations of police involvement in dealing with child abuse and neglect

Some police were frustrated that, because of the absence of authorised child safety officers in many of the communities, the local police were sometimes the ones left to go into homes and remove children when a substantiated child abuse order had been made. They asked: 'How are we meant to develop good relations and be part of the community when we have to do that?'

All police confirmed that they did have a strong focus on enforcing alcohol restrictions and that these activities have added substantially to police workloads, and to tensions between communities and the police in recent years (see the further discussion of the effect on relations below).

The amount of time and effort spent by police in enforcing AMPs varied from community to community, depending on factors such as the inherent enforceability of an AMP in a particular location, the extent of the alcohol abuse and violence problem, the level of police resources available, and the availability of intelligence about 'grog running'.[145] The inherent enforceability of a community's AMP depends largely on factors of geography, such as the number of roads in and out of the community and the distance to available alcohol outside the AMP. For example, in 2009 we heard:

- Many communities are adjacent to long stretches of coastline, presenting a formidable challenge to effective prevention of grog running. Indeed in some areas, such as Palm Island, where grog runs are frequently conducted by boat, police expressed concern that they have had to conduct a growing number of search and rescue operations and they are worried that lives may one day be lost.
- Many communities have several roads and tracks providing access options for grog runners, making effective enforcement of the AMP both very difficult and time consuming.
- Where there is only one road in and out of the community, police have been able to employ strategies that greatly reduce the amount of police time that has to be devoted to catching grog runners.
- On Mornington Island, where it might be thought that the alcohol restrictions could be relatively easily enforced as grog can only be brought into this remote community by boat or by plane, policing 'home brewing' activity has become a major focus for police. Large quantities of home brew can be easily made by fermenting everyday items of food and drink available at the local store.

Although both local police and community members typically nominated violent crime as the most significant problem, no police nominated the 'noisy party' problem. This may be because police did not perceive noisy parties to be significant, or because they did not see responding to this as 'police work' but rather the responsibility of the local council.

It is a concern that noisy parties and the associated problems were consistently identified by communities to be a major problem but were not identified as such by any police. Consistent with this discrepancy in the identification of priorities, we found little evidence of community members having input into setting police priorities and little evidence of an ongoing dialogue

145 During our initial consultations in 2007, many police told us about their frustrations relating to policing the alcohol restrictions, including the fact that the AMPs were difficult to police for a range of practical and legal reasons. For example, at this time there were 'loopholes' that could be exploited in terms of restrictions not applying to some roads in some communities and not applying to home brewing. Police also complained that they had limited powers to search people for liquor without a warrant (see also the submission of the QPS, p. 10). Our more recent consultations indicated that the further alcohol reforms, which included a number of legislative changes introduced in 2008 in relation to these matters, had largely resolved these problems for police.

between police and community members about police priorities or policing strategies to deal with particular problems. The apparently strong relationship between OICs and community justice groups in some communities perhaps provided the exception, although only in a few cases.[146]

Specifically, we found little evidence of local justice agreements or community safety plans or similar, despite various recommendations and commitments of governments made along these lines (see Fitzgerald 2001, p. 181; Queensland Government 2002; see also recommendation 215, Johnston 1991, vol. 4, p. 85).[147] As we described in Chapter 2, the former Queensland Government Coordination Office — Indigenous Service Delivery had been negotiating Local Indigenous Partnership Agreements (LIPAs), but the three agreements negotiated before this strategy was abandoned did not have any strong focus on policing, crime and justice issues. The new process — now led by Aboriginal and Torres Strait Islander Services (ATSIS) within the DOC — is the negotiation of Local Implementation Plans (LIPs).

We also heard during our consultations about the lack of access to any official information on the level of crime in the communities. Some people said that they had tried to obtain crime figures from the QPS but were told that it was not available or that such information could only be provided by the Commissioner of Police. This situation has now been alleviated for many communities by the decision of the Queensland Government to publish data on reported offences against the person by community from June 2008, in the *Quarterly report on key indicators in Queensland's discrete Indigenous communities*[148] (Queensland Government 2008b, 2008c, 2008d, 2009a, 2009b). The fact that until so recently people had no access to information about crime in their own communities (and that it continues to be limited) is a sad indictment of the state of the QPS's and the Queensland Government's 'partnership' with Indigenous communities over many years to address crime.

Availability and responsiveness of police

The need for more community involvement is also illustrated by the concerns that were expressed to us about the availability and responsiveness of police.

In Chapter 8 we observed that the adequacy of policing, especially in relation to the availability and responsiveness of police after hours, was a matter of real concern that affected the communities' confidence in police. During our consultations, community members told us that police were often not available when needed, did not attend after a call was made for assistance (especially late at night), and took too long to arrive after being called, came the following day or did not come at all. At several of our meetings in communities we asked people: 'If there was one thing that the inquiry could change, what would you want it to be?' The answer most frequently given was: 'That the police would come when we call.'

146 The QPS submission (p. 12) refers to its establishment of consultative structures to facilitate Indigenous people's involvement in policing 'designed to develop genuine partnerships between police by providing local forums to discuss matters of concern'. The QPS states that the effectiveness and sustainability of ICPCGs have been variable and that 'more consistent community involvement is necessary, and there is a need to develop the capacity of community members to provide enhanced support'. However, the submission does not state that, as noted earlier, only one of Queensland's Indigenous communities has an ICPCG — Palm Island.

147 In Britain, legislation has been introduced requiring police to have greater levels of consultation with local communities and making police responsible for producing local-level plans. Additional legislation in Britain requires police to work in conjunction with other agencies, including local authorities, in 'community safety partnerships' to address crime prevention and community safety. A key dimension of community safety partnerships is to audit the local communities to establish priorities for future work (see Rowe 2004, p. 127).

148 The phrase 'discrete Indigenous communities' is used by the Queensland Government to include all the communities within our terms of reference (see Chapter 1), except for those in the Torres Strait Islands. It also includes the Indigenous communities of Mossman Gorge and Laura, which are not included in our terms of reference.

Many of the matters for which it was claimed police did not respond could be categorised as public order incidents — noisy parties, aggressive or threatening behaviour, drunk drivers 'hooning', and juveniles causing a nuisance or damaging property. Also mentioned were incidents such as people stealing vehicles or breaking into buildings or compounds. Some people agreed that often such incidents simply end without much consequence or are resolved in other ways. However, many people related stories of such incidents escalating to serious and even fatal outcomes, and these people made the point that police intervention might have averted serious results.

As an example, at meetings in the Northern Peninsula Area we were told about instances where the police response was considered to be deficient. One such incident reportedly involved a drunk driver recklessly driving around the town one evening. We heard that the police were called, the call was diverted to Cairns and the caller was told that police would not be dispatched. Later, the car hit and killed a person. Those at the meeting strongly made the point that police intervention might have saved a life. We did not attempt to verify this story, but it highlighted that incidents in Indigenous communities can have unique features which increase risk. We found that drunk drivers 'hooning' can raise fears and ignite anger, especially as many people in Indigenous communities, often children, congregate outdoors in the evenings, exposing them to risk from reckless driving. It seems plausible that police communications centre operators, abiding by standard criteria for incident seriousness, may fail to recognise that such incidents could be more serious in Indigenous communities.

At almost all our meetings, frustration and annoyance were expressed about the practice of calls for assistance to the local police being diverted to the regional or district police communications centre. We heard frequently that when community members telephone the police they want to talk to a local police officer and not 'someone in Cairns'.[149] People said that when they realise their call has been switched to a larger centre they usually hang up. One council CEO stated that people often came to him after a call was diverted to get him to call the OIC personally, or said that in such situations people go to the police station and houses to try to find an officer.

We heard that people disliked call diversion for the following reasons:

- mostly people were concerned that someone far away, such as in Cairns, would not treat their call as important or would not recognise the urgency or seriousness of the call
- people expected that, as a result of calls being diverted, no police would be sent or they would get a delayed response (whenever people were told that police would come the next day or that local police would be advised of the call the next day, it clearly reinforced that perception)
- some people felt that if a call was answered elsewhere then that person would lack the local community knowledge necessary to respond appropriately — that is, they would not know the caller, their family or their community, or recognise locations or addresses
- a few people felt they had or would have difficulty making themselves understood (because of their English language abilities or their accents).

Another aspect of police availability that was also of some concern was the opening hours of police stations. Unlike in larger communities, where the initial contact by members of the public with police is almost always by telephone, in Queensland's Indigenous communities it is common for people to go to their local police station to speak to an officer in person. If the station is unattended, it is not unusual for community members to seek out the officer at home, although the fenced 'compound' of police station and police houses or units in some communities makes this difficult.

149 The other relevant regional or district centres to which calls may be diverted are Murgon/Gympie, Rockhampton, Townsville and Mt Isa.

As described in Chapter 6, stations in these communities are generally not open for standard office hours. On our visits we noted that some stations had regular opening hours posted on the front door, even if for only one day per week for a two-officer station. Others, however, gave no indication of when the station would be open — the door was simply locked. Stations may need to be closed when police numbers are low and when operational requirements take police out of the station to conduct investigations or follow up on crime reports, for example. Only about half of the police stations have dedicated administration or front-counter staff employed at the station, allowing the station to remain open at such times to deal with basic inquiries.

Many community members across Queensland's Indigenous communities forcefully and frequently expressed their views that local police should be available at all times. Sometimes it was clear that the community expectations in this regard were not reasonable, such as at the two-officer stations. For example, we heard that people were worried that their police station was often closed even during daytime hours. When this matter was discussed further, people usually acknowledged that the station could not always be open to the public, especially where local police officer numbers are small.

On the other hand, there are obviously very real concerns about police availability and responsiveness. In the outer islands of the Torres Strait these concerns were most extreme because of the lack of any permanent police presence. Community members told us that police from Thursday Island will respond to the most serious offences, but because of the geography the best they can usually do is arrive the next day. We did hear examples of other types of less serious matters where follow-up happens months later.

Police across the communities were generally aware of the criticisms about availability of police, response to calls, diversion of calls and opening hours of stations. Police clearly have a sense of what people want but generally feel that community expectations in this regard are not realistic. Many officers-in-charge commented that community members expect a 24-hour service regardless of how many officers are stationed in the community. It is not possible for these stations to have police on duty around the clock and OICs did not believe it necessary (despite the high crime levels). Police also pointed to the fact that the practice with respect to call diversion is consistent statewide and is not unique to remote communities.[150] However, remote communities are unique in that local police cannot be quickly supplemented or reinforced by officers from an adjoining division.

A senior police officer in a regional office told us that sometimes community members contact police over trivial matters and related the story of a man who banged on the door of the OIC's residence in an agitated state late at night because the softdrink vending machine near the entrance to the police station had malfunctioned, taking his coin without dispensing a drink. Other police told us that it was common for the telephone company to disconnect phone services because of unpaid bills but allow continued access to the 000 service for use in emergencies. People then use the 000 number for non-emergency calls.

However, more recent consultations in 2009 indicated that at least in some communities police felt that greater alcohol restrictions had 'changed the landscape of policing'. Some officers admitted that, before their community went 'dry', they would sometimes be unable to attend to serious violent matters because of the demand on their services. For example, officers stated that previously there might have been several incidents happening at once and they might have had to 'let a stabbing go' because they did not have the resources to attend — but now, because things are 'quiet', they 'get to everything'.

150 We are aware from consultations that the QPS plans in the future to transition to one call centre to receive calls statewide (see also Spence 2007b). Some other jurisdictions in Australia currently operate with one call centre only.

Given that the ratios of allocated police to population in these communities are already high and that numbers have already been increased in many communities in recent years, we do not believe that further increasing police numbers in Queensland's Indigenous communities beyond the current allocations should be the automatic or immediate response to the concerns raised across the communities. There are real concerns, however, in the outer Torres Strait Islands, where there is no permanent police presence, and elsewhere it is also important that numbers are maintained at adequate levels (see Chapter 11).

What is most urgently needed across Queensland's Indigenous communities, and what is required on an ongoing basis, is careful consideration of how police in these communities are going about the task of policing (see the further discussion throughout Part 2 and Part 4 on the need for a problem-solving and partnership approach to policing to be central in these communities). We believe this to be particularly important in the light of what we have been told in 2009, that in some communities where the police say the AMP is having an impact, and where police may be finding things to be now relatively 'quiet', there is a risk that with the increased numbers of police and a continuing focus on law enforcement (particularly of the AMP) overpolicing and a deterioration in relations could be the result.

Steps must also be taken to improve the community members' and police officers' understanding of the issues surrounding police availability and responsiveness.

Informal interaction

Informal interaction with police is the final area in which it was indicated that a gap needed to be bridged between community expectation and the delivery of policing services.

We found that people were very keen for police to be 'involved in the community', both on-duty and off-duty; community members stressed the importance of having opportunities to interact with police informally. Many people expressed the desire to form a personal relationship with officers and complained that too often community members only see the police when they are enforcing the law and in conflict situations. One mayor summed it up this way: 'We never see the police until they jump out from behind that bush.'

We heard repeatedly that people want the police to come to community events, to help with sport for young people, to support community programs, and especially to talk to people, socialise and be seen often walking around the town. As a member of a community justice group put it: 'We want them to mingle with the mob.'

We heard fairly consistently that people perceived police to have withdrawn from their community in the period before our initial consultations in 2007. People commonly mentioned, for example:

- the decline in the Adopt a Cop scheme[151] across communities; numerous times we were told 'we used to have Adopt a Cop here' and it seemed that the scheme had strong community support
- that Blue Light discos and involvement in youth sport had declined or ended.

One young person at our public meeting in Doomadgee said: 'Can you tell me why the police won't play football with me any more?'

In another community we were told that the community was keenly aware of the officers having something of a 'fortress mentality'. It was said that the officers did not mix at all in the community but rather that they worked only with each other, they lived and socialised within the police compound, and when necessary they moved around the community with each other (for example, it was said they only went to the community store to do their shopping in pairs).

151 The Adopt a Cop program has existed in Queensland since 1985. Under the program a police officer works with the local school to build a better relationship between the service and students.

This behaviour was described as sending a clear message to the community that police were 'scared' of the community.

On the other hand, OICs generally said they make efforts to be known in the community and participate in community life. For example, most mentioned that they attend various meetings on a regular basis. However, several times we were told that attendance at meetings can become a time-consuming and onerous task as there are 'so many', but that OICs see it as part of their role to participate as often as possible. One officer, in response to our feedback that community members had been critical of the participation in community groups by the OIC, rejected the criticism. She offered to show us the OIC's diary and said 'he is always going to meetings'.

During our consultations, the following possible reasons were put forward for a perceived decline in police involvement in community life before our visits:

- a growing attitude that involvement with the community or community policing was seen only as a 'sideshow' to 'real' policing, which is about law enforcement and arresting and prosecuting offenders; it was said that some officers saw their service in these communities 'as a great way to get pinches', or to 'get their stats up' for dealing with serious offences
- several senior officers acknowledged that younger officers tended to be less involved in community activities than previously; some put this down to the 'Generation X/Y effect', with young officers having different interests from those of earlier generations and being less inclined to become involved in community activities. For example, young officers were said to spend a lot of their free time in their rooms on their personal computers. Possible reasons for their lack of engagement are:
  - the six-month rotation of junior officers into and out of these communities (see Chapter 11 for further discussion)
  - that police workloads have increased, especially with the advent of alcohol restrictions
  - that it may be a repercussion of Mulrunji's death and the riots at Palm Island and Aurukun.

We have already said that these are small and sensitive communities and policing should be adapted accordingly. When we travelled to South Australia and Northern Territory, we were told that police were encouraged to increase their level of informal interaction with Indigenous communities by, for example, encouraging them to have a sports coaching qualification in order to work in these locations. It is our view that police in these communities should see such involvement in the community as part of providing good policing services. It should be expected that such activities may occur sometimes in the officer's own time, but also that this is considered part of their job when on duty. Reinforcing the need for officers to be actively engaged in community life, and the value placed on this kind of service, would help to send the right message to all QPS officers working in Queensland's Indigenous communities.

Enhancing perceptions of fairness

During consultations the importance of people's perceptions of what is 'fair' policing was obvious. We often heard that people were satisfied if police were 'firm but fair'. It was commonly indicated that people want to know what to expect from their police; sometimes this was described as a desire for greater consistency or a desire for police who are willing to explain what they are doing — why they are taking action against offenders.

We saw that the same problem — for example, that of unlicensed driving and traffic offences — could be policed in very different ways with very different effects on relationships, depending on whether community members knew what to expect and whether they perceived that the strategies used were fair. See the further discussion in the accompanying text box.

Fairness and unlicensed driving offences

When we visited one particular community, it was clear that a lot of tension had been generated by the number of people who had been charged for unlicensed driving. The focus of police in this community was apparently one of strict law enforcement; that is, they conceived their role as being principally about charging lawbreakers with offences. Yet community members explained to us that there were many factors in Indigenous communities (including the remote locations, the low incomes, the low number of private vehicles and limited literacy skills) that they felt police were not taking into account.

On the other hand, one former OIC, who had an excellent reputation across a number of communities and was highly regarded for his fairness, described to us the Educate, Implement and Enforce or 'EIE' approach. He gave driver licences as an example:

1. First educate the community about the law or acceptable standards regarding an issue. For example, educate young people about the fact that they must have a licence if they want to drive and about the risks associated with unlicensed driving.
2. Then assist the community to implement what must be done to achieve compliance with the law — for example, by setting aside and publicising days when licence testing is done and by reminding specific individuals to attend.
3. Then enforce the law. As the final phase, police are to check that drivers have licences and charge those without them.

Other aspects of fairness were also highlighted by community members:

- It is important for police to be seen to enforce the law equally, with 'no favouritism', 'white or black', being 'even-handed'.
- There is a desire to be 'treated with respect'. 'We don't like police who talk down to us' was a sentiment very widely expressed across the Indigenous communities.
- People want police officers who 'relate well' with Indigenous people — that is, officers who are 'prepared to listen', who are 'interested in people' or who are empathetic.

Policing of alcohol restrictions

As we have mentioned in earlier chapters, since 2002 the Queensland Government has introduced AMPs to restrict the type and quantity of alcohol available in all Queensland's Indigenous communities, except for those in the Torres Strait Islands. Since late 2008 these restrictions have been further tightened to make these communities as dry as possible — see also Appendix 2 (July 2008) for details.

The QPS is largely responsible for taking enforcement action against breaches of the alcohol restrictions and has been required to make this a priority in all communities where there is an AMP. Accordingly, officers conduct targeted operational activities such as interception of vehicles, vessels and aircraft and random breath testing (submission of the QPS, p. 10).

The policing of alcohol restrictions clearly generates a great deal of tension in the relationship between police and these communities. In one community, police commented that it is their policing of the alcohol restrictions that creates most hostility towards them. Police at this location generally agreed with one officer who claimed 'we can go in and remove children with less anger and hostility being directed at us than when we take the grog … It's when we take the grog that people get really angry. That grog means everything to them. It means more than their children.'

Perceptions of fairness are a major issue in relation to the policing of alcohol restrictions. In large part this reflects the general controversy surrounding the implementation of alcohol restrictions under the AMPs. Most, if not all, communities are divided to some extent over the question of whether alcohol restrictions should be retained or abolished. In the most recent local council elections held in Indigenous communities in 2008, many of those councillors elected campaigned on the basis of their opposition to alcohol restrictions.

Issues of legitimacy and fairness were raised with us by many members of Queensland's Indigenous communities. For example:

- Those opposed to the AMPs complained that it is a racist law which criminalises people for doing something that is legal for people elsewhere.[152]
- The process for the development and implementation of AMPs was widely criticised because it was 'imposed on us without consultation' or 'the government did not listen to our ideas'. This criticism was consistent whether people supported the restrictions or not.[153]
- Many people were critical of the focus of the AMPs on enforcement and supply reduction only. At the time of our initial community consultations, the state government was yet to announce its plans to provide substantial funding for an alcohol demand reduction strategy in these communities (Queensland Government 2008a, 2008f); however, our consultations in 2009 indicated that, even after funds for such services had been allocated, their implementation on the ground in many communities was not yet a reality.
- Many people who weren't troublemakers and had never been in trouble with the police before were said to have been charged with breaches of the alcohol restrictions.
- A number of people felt that the 'large fines are unfair'; some people told the inquiry that they could not or would not pay the fines they had been given, as they equated to two or three (CDEP) pay packets.[154]

Many people also complained more specifically about the 'fairness' of policing of the alcohol restrictions:

- It is thought that Indigenous community members are being treated differently; 'only Indigenous people ever seem to get policed'.
- People in the Cape said that 'blue blitzes' were common, where the Tactical Crime Squad from Cairns conducts vehicle 'stop and searches' around a community to search for alcohol; people complained about the frequency and manner of the 'stop and searches', saying 'we all feel like criminals'.
- Personal searches for alcohol conducted by police at airstrips and jetties to search arriving passengers and their luggage for alcohol were said to be intrusive and disrespectful; it was a commonly expressed view that 'only Indigenous people get searched'. People complained that police were sometimes rude, rifled through possessions or tipped possessions out of bags, and conducted 'pat-down' personal searches or even strip searches. Police methods were contrasted with those of Quarantine staff at Cairns Airport, who were said to be polite and respectful (see also ABC news 2009c).
- It is suspected that police are having parties and drinking seized alcohol rather than destroying it. Several people claimed that they knew the police were doing this, as they had heard from others who had seen it occurring or had seen empty bottles discarded as rubbish — though nobody claimed to have seen this behaviour firsthand.

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152 There is currently a case before the Queensland Court of Appeal that seeks to challenge the legality of a conviction under the alcohol restrictions on the basis that they are racist because they were imposed on Aboriginal communities and not the rest of the state. In 2007, Florence Morton was arrested trying to bring two bottles of whisky onto Palm Island. She was convicted in the Townsville Magistrates Court and she lost a further appeal in the District Court (see *Morton v. Queensland Police Service* [2009] QDC 233 Durward SC DCJ 19/06/2009; see the submissions made in the District Court by the Human Rights and Equal Opportunity Commission available on the HREOC website, <www.hreoc.gov.au/legal/submissions_court/intervention/2008/20081003_alcohol_palm.html>).

153 Some consultation was undertaken by government with community justice groups and it may have avoided broad consultation as agreement would not have been forthcoming. Pearson has described this aspect somewhat differently; rather than criticising a lack of consultation, he refers to the introduction of AMPs as a 'lost opportunity' for the government to build community support for limiting alcohol supply.

154 Penalties for breaching the alcohol restrictions are imposed under s. 168B of the *Liquor Act 1992*. It provides maximum penalties for a single offence of up to 375 penalty units (currently $37 500) or for a third or later offence of up to 750 penalty units (currently $75 000 or 18 months imprisonment). The average fine amount imposed for a breach of the alcohol restrictions is far less than these maximum amounts (see O'Connor 2008).

In relation to searches, police generally said that Indigenous people were not specifically targeted and that everyone entering an AMP area could be the subject of searches.[155] Indeed, there have been a number of high-profile cases of non-Indigenous people being searched and charged with breaches of the alcohol restrictions, notably:

- police action taken in relation to a bottle of wine on board a government jet on which the then Queensland Minister for Indigenous Policy, Liddy Clark, and her staff were travelling, at Lockhart River in 2004 (CMC 2004b)
- police searching luggage at the airport on Mornington Island, which resulted in the prosecution of the then CEO of the Mornington Island Council for a breach of alcohol restrictions in 2007 (see ABC news 2007c).

On the other hand, some police noted that they had limited resources, so of course they did target certain individuals suspected of involvement in grog running or who had been caught in the past. Police noted that searching was necessary as some people went to great lengths to hide alcohol; for example, one officer stated that he had found a bottle of spirits secreted within a package of meat.

When we questioned police, we found that the methods they used to destroy or dispose of seized alcohol varied. Some of these methods would go a lot further in improving the perception of fairness than others (see the accompanying text box).

Disposal of seized alcohol

At some locations, deliberate strategies had been put in place in order to improve perceptions. These included:

- alcohol being disposed of in the presence of a council environmental health officer, community police officer or senior community member
- alcohol being disposed of in public view at the same location and at about the same time of day.

In contrast, police at some locations said that they simply disposed of alcohol in the yard of the police compound, which was often out of public view. (An officer previously at Palm Island joked about how a patch of ground near the police station must be very alcohol-sodden.)

Although police were often aware of the community perceptions about fairness that we have described, they did not generally consider these to be a 'big issue'. It is our view that police and community relations would benefit from an improved focus on the importance of enhancing perceptions of fairness in the way policing of alcohol restrictions is carried out.

Patrolling

In addition to being one strategy that may form part of a community policing approach as described above, patrolling is a standard policing strategy that can be carried out in a number of ways, including:

- non-directed or random patrols (that is, patrols not specifically focused on crime risks)
- directed preventive patrols focused on high-crime places, times or areas
- foot patrols (which are promoted in the community policing approach discussed above).

155 The inquiry team was searched on a small number of occasions during our consultations. On those occasions all passengers, Indigenous and non-Indigenous, were searched, and police were polite but thorough.

Is patrolling effective?

For non-directed patrols the research evidence — famously including the Kansas City Patrol Experiment — is not considered to be high quality.[156] Sherman & Eck (2002, p. 307) conclude that, regardless, 'there is little evidence that changing the number of officers patrolling beats has a consistent and measurable impact on crime'.

For directed patrols the research evidence is scientifically stronger and shows that concentrating police patrolling at places where and times when crime is likely to occur can be effective in reducing crime (see Sherman & Eck 2002, pp. 308–10; see also Weatherburn 2004, pp. 95–6). For example, the Minneapolis Hot Spots Patrol Experiment shows a very strong relationship between the length of each police patrol presence (which involved uniformed police in marked police vehicles) and the amount of time the hot spot was free from crime after the police left the scene. The longer the police stayed, the longer the time until the first crime or disorderly act after they left. This relationship held for each additional minute of police presence from 1 to 15 minutes, after which it began to reverse. This suggests that the optimum length of a police patrol visit to a hot spot for the purpose of deterring crime is about 15 minutes (see Sherman & Eck 2002, p. 309; McGarrell et al. 2001; Sherman 1990, 1996).

Other research evidence suggests that focusing directed patrols on high-crime areas is productive, but that it can be made even more so by having officers use tactics that are problem specific — for example, by using patrols to enforce truancy and curfew violations (see Sherman & Eck 2002, pp. 309–10; see the further discussion of Problem-Oriented and Partnership Policing (POPP) below).

This evidence suggests that increasing the visibility or the level of activity of police in crime-prone areas might be an effective and efficient way of reducing crime. It is in this way that police play a crucial role in limiting the opportunities and incentives for involvement in crime (Weatherburn 2004, pp. 71, 81–4).[157] This kind of strategy is likely to be particularly effective in reducing transient offending.

There are a number of well-documented impediments to police being able to mobilise their resources so that police surveillance and enforcement capacity peaks at the time and locations when crime rates peak – for example, shift structures and overtime budgets that limit the capacity of police to patrol late at night. For this reason, Sherman and Weisburd (1995; see also Weatherburn 2004, p. 97) have argued that patrolling with limited police resources might be made most effective by keeping patrol times unpredictable in terms of timing and duration, but keeping the average length of the patrol presence in a location short.

A recent study by Bradford et al. (2009) indicated that not only can patrolling be an effective crime reduction strategy, but citizens' perceptions of police effectiveness, fairness and community engagement may actually be improved when they perceive high levels of police visibility, as assessed by their reported frequency of foot, bicycle and/or vehicle patrols. Conversely, it has been argued that increasing the visibility or level of police activity through patrols or crackdowns can all too easily destroy community trust and confidence in police and can lead to counterproductive effects. In relation to crackdowns, for example, Weatherburn (2004, p. 97) states:

> Communities that have long felt the brunt of aggressive or intensive policing are not likely to react well to a further intensification in policing, particularly where the target of the crackdown is seen (even if incorrectly) to be an identifiable racial or ethnic group (Dixon 1988). Ill-conceived or poorly executed crackdowns can reduce the level of

156 That is, these studies have not accurately measured the number of hours of patrolling actually delivered and therefore are unable to distinguish failures of implementation from failures of impact.

157 See, for example, McGarrell et al. (2001) and Sherman (1990); the results of these more recent studies can be compared with those of the well known (and heavily criticised) Kansas City Patrol Experiment which led to widespread pessimism about the capacity of police patrolling to reduce crime (cited in Weatherburn 2004, p. 95).

> cooperation police receive from the community in dealing with crime … careful judgement is required, therefore, in deciding when, where and how to conduct a crackdown intended to deal with a crime problem.

How are Queensland's Indigenous communities patrolled?

Our inquiry frequently heard criticisms either that the police are only seen in their vehicles driving around town, or that they are rarely seen at all. Many people said that officers are never seen walking around. This may seem to be a relatively minor concern, but in several communities people left us in no doubt about the strength of their feelings on this point. People want police to have a visible presence around the community as reassurance that police are active and as a deterrent to antisocial behaviour.

Police explained to us that constraints on the time available for patrolling include high workloads and the demands of doing the 'paperwork'. Further, in relation to foot patrols, it is likely that in most communities the difficult seasonal climatic conditions of high temperatures, humidity and monsoonal rain make an air-conditioned office, or a vehicle, a more attractive work environment. Police agreed that, for the most part, they conduct patrols by motor vehicle and that it is relatively rare for police to patrol on foot.[158] In a few communities, some police also advised that they would not feel safe walking around the town after dark, particularly as police in their vehicles are sometimes targeted by stone-throwing youths. A PLO told us that the police would 'never, ever walk around' the community — 'you'll never get them to do it'.

On the other hand, one OIC emphasised the importance of police 'showing people that we will actively police the place'. He said that being seen patrolling around the community, particularly in the company of his community police officers, helps to maintain community confidence in police and lets the offenders know that police will not be sitting back in the police station ignoring what they are up to. Another senior officer with a strong crime prevention focus described the importance of foot patrols; he said that when the tavern was open it was important to walk through it early in the evening, before any trouble began, to talk with people. This officer had recently begun patrolling the community on pushbike together with a local PLO. These patrols were conducted without any police accoutrements (handcuffs, gun, capsicum spray or taser) other than 'a piece of PVC pipe to fend off the dogs', and the patrols were said to be 'a great way to engage people'.

We saw one example of vehicle patrolling being conducted to maximise the level of interaction and community engagement; it was good for relations and possibly for crime reduction also (see the accompanying text box).

Vehicle patrolling

One OIC showed us that it is possible to drive around the community on duty in a way that maximises interaction with people. He took us on a tour of the town in the early evening, and driving with the windows down he frequently stopped to talk to people. Mostly he spoke about work-related matters; for example, he reminded a young man not to drive while his licence was suspended and encouraged him to later do the heavy vehicle driver training in which he had previously enrolled so that he might qualify for a job in the mining industry. With others, the Sergeant just engaged in small-talk.

A large number of people of all ages acknowledged him with a wave or a shout of his nickname as we passed. In our experience, such behaviour by community members is quite uncommon and provides an indication of the respect community members have for this highly regarded officer.

158 In coastal communities such as Pormpuraaw and Thursday Island, police also conduct periodic patrols by boat.

In Queensland's Indigenous communities, police are constrained in their capacity to conduct patrols effectively by the way officers are rostered for duty (as described in Chapter 6) and limited overtime budgets. At most stations, officers are working a fixed pattern of day shifts and afternoon or evening shifts towards the end of the week (there are some exceptions such as Thursday Island, where police work a night shift to the early hours at the end of the week and on weekends). Day shifts are typically fairly busy and are characterised by following up calls from the night before, and taking crime reports and statements (again, this situation is typical of many areas of the state). At other times, officers are on call-out and are paid a substantial overtime loading for working in those hours. The ability of officers to work overtime shifts is limited by the overtime budget and their need to rest. Officers view overtime as part of their salary package and a reward for working in these communities. These arrangements allow only a limited capacity for patrolling at the times when crimes are most likely to be committed — that is, in the evenings, early at night and on weekends.

A need for greater emphasis on patrolling

For two reasons we believe that a greater emphasis should be put on patrolling in Queensland's Indigenous communities:

- there is high-quality research evidence that directed patrols in high-crime areas are productive and that they may be made even more so by having officers use tactics that are problem specific; other research suggests that patrolling may also improve relations
- as discussed above, there is a clear concern in Queensland's Indigenous communities about whether the level of policing provides an adequate response to the high crime levels in these communities — patrolling and increasing the visible presence of police in this way may build community confidence in police and improve relations.

Arrests

Like patrolling, arrest practices can be focused or not focused on crime risk factors. Reactive arrests are in response to specific citizen complaints. Proactive arrests concentrate police resources on a narrow range of high-risk targets such as chronic serious offenders, robbery suspects, and high-risk places and times for drink-driving.

Are arrests effective?

The research evidence in this area demonstrates the complexity of police effects on crime, and of measuring them:

- Research generally indicates that there is no general deterrent effect of arrest — higher arrest rates in a city for a particular type of crime are typically not associated with lower levels of offending (Sherman 1996).
- Several studies indicate that there is no individual deterrent effect of arrest on juvenile offenders (Huizinga & Esbensen 1992, cited in Sherman 1996; Klein 1986, cited in Sherman 1996; Smith & Gartin 1989, cited in Sherman 1996). In fact, juveniles who are arrested are generally *more* likely to re-offend after their arrest than juveniles who are not arrested. However, Smith and Gartin found a deterrent effect of arrest if it was for the juvenile's first offence.
- There is strong research evidence that arrest increases repeat offending among unemployed suspects, while reducing it in employed suspects.
  - Some research suggests that this effect is even more powerful in neighbourhoods of concentrated unemployment and single-parent households, regardless of individual employment status (Marciniak 1994, cited in Sherman 1996; see also Sherman & Eck 2002, p. 310).

  - This pattern appears to explain the different results regarding whether arresting domestic violence offenders deters them from further offending. Some studies show reduced re-offending after arrest, while others show increased re-offending (see Sherman 1996 for an overview). These seemingly conflicting results appear to arise from the different effects that arrest has on different types of offenders — specifically, arrest appears to decrease recidivism among employed offenders, but increase recidivism among unemployed offenders (Berk et al. 1992, cited in Sherman 1996; Pate & Hamilton 1992, cited in Sherman 1996; Sherman et al. 1992, cited in Sherman 1996).
- The evidence about proactive arrests suggests:
  - that police proactively targeting persistent offenders for arrest and successful prosecution shows promise[159] in terms of exerting downward pressure on crime (see Weatherburn 2004, p. 94)
  - that proactive arrests may be effective in preventing crime when they are directed at repeat offenders, or when used to reduce drink-driving injuries and fatalities. There is weak evidence that they can reduce violent crime, and conflicting (but generally negative) evidence that they can reduce drug sales.
- There is evidence that, at least for offences that involve a degree of planning, such as drink-driving and fraud, people are less willing to engage in offences if they perceive their chances of apprehension to be high — but a key question is whether police can increase clear-up rates in ways that signal a substantial increase in the risk of apprehension (Weatherburn 2004, p. 89). There are a large number of studies that show the close relationship between the perceived risk of apprehension and people's self-reported degree of willingness to engage in crime (cited in Weatherburn 2004, p. 117).[160]

How is arrest used in Queensland's Indigenous communities?

We saw that arrests in Queensland Indigenous communities were largely reactive. The accompanying text box provides further information on the impact of arrests carried out by tactical crime squads.

Arrest tactics in Queensland's Indigenous communities

'Blue blitzes': the use of tactical crime squads

Tactical crime squads are units formed to focus on particular local crime problems within the region and are used on a regular basis, at least in the QPS Far Northern Region, to bolster policing in Indigenous communities. From the QPS watch-house registers we examined (see Part 3 for further information obtained from the registers) we could see these squads were used on a 'fly-in, fly-out' basis to execute warrants and arrest suspects, often just prior to the local sitting dates of the Magistrates Court circuit. Local police and community members told us that the squads are also involved in operations focusing on enforcing alcohol restrictions and traffic offences.

Many community members made their resentment of the squads very clear. Complaints typically referred to their 'rudeness', excessive force and 'disrespect'. Many people felt the squads had a negative impact on relations and the QPS must consider this carefully when they are deployed in these communities.

Continued next page >

159 That is, studies exist that may show mixed results, or not be of sufficiently high quality, so no claim can be made that such strategies are 'effective'.

160 Although there is evidence of this close connection, such survey research designed to identify factors that influence compliance with the law also finds that most people are inhibited from crime by their sense of personal morality rather than the threat of being apprehended and prosecuted (cited in Weatherburn 2004, p. 117).

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Other methods

When we travelled to the Northern Territory, an officer told us that it was once a practice of police in remote communities to conduct a 'sweep' of the town in the early evening to arrest any likely 'troublemakers' in order to prevent any later escalation in violence. In our initial consultations at Kowanyama we heard of a somewhat similar tactic being used, where police, community police and community justice group members would patrol the community in the evenings and if necessary make arrests, often for by-law offences. Apparently this activity was unpopular with some sections of the community, whereas others saw it as important to limit the violence occurring at night.

Whether such tactics are effective or unduly oppressive is arguable, but police and community members themselves must try various strategies in order to try to reduce crime and violence in these communities.

We give further detailed consideration to the use of arrest in Part 3, which is about issues of detention in police custody. In Part 4 we also consider the research evidence regarding the crime prevention effectiveness of diversionary strategies that provide alternatives to arrest. It is our conclusion that there does not appear to be a great deal of scope for the further reduction of arrests generally in Queensland's Indigenous communities.

Problem-oriented and partnership policing

Problem-oriented policing (POP) is a strategy that has developed since the 1970s which seeks to shift the emphasis away from 'incident-driven' policing (that is, police relying solely on providing a law enforcement[161] reaction to incidents as they occur) towards examining the main problems that cause these crime and disorder incidents, in order to develop strategies to prevent them. Problem-oriented policing importantly recognises that:

- police deal with a range of community problems, many of which are not strictly criminal in nature
- arrest and prosecution alone — the traditional functions of the criminal justice system — do not always effectively resolve problems
- giving the police officers, who have great insight into community problems, the discretion to design solutions is extremely valuable in solving the problems
- police can use a variety of methods to redress recurrent problems
- the community values police involvement in non-criminal problems and recognises the contribution the police can make to solving these problems.

The strategy emphasises research and analysis, crime prevention and the engagement of public and private organisations in the reduction of community problems. Problem-oriented policing focuses on identifying characteristics that are common to incidents, analysing their underlying causes and sources, developing responses and solutions to these root causes, and evaluating the outcomes of these responses.

161 Law enforcement focuses on strategies such as random patrolling, rapid response, arrest and follow-up criminal investigations.

The problem-solving approach necessarily involves a heavy emphasis on partnerships, as it recognises that police alone cannot tackle many of the underlying causes of crime. Once a problem is identified, officers are expected to work closely with community members to develop a solution that can include a wide range of alternatives focusing on the offender, the community, the environment, outside agencies, or the need for some kind of mediation. Solutions are expected to be tailor-made for the problems identified, so a high degree of importance is placed on creativity and discretion (Goldstein 1979, 1990; see also Centre for Problem Oriented Policing at <www.popcenter.org/>).

Is problem-oriented policing effective?

Weisburd et al. (2008) systematically reviewed ten control group studies that had evaluated the effectiveness of a POP program based on the SARA (Scanning Analysis Response Assessment) model. It found that POP:

- modestly but significantly reduced crime and disorder
- was particularly effective when the police department was fully committed to the program, when officers involved in POP were given manageable workloads, and when specific problems (such as vandalism) were targeted rather than total crime (Weisburd et al. 2008).

There was great diversity among the studies in terms of the crime and disorder problems addressed and the responses that were implemented. Problems included public drinking, vandalism, violent crime, drug markets, repeat calls for service, and high rates of re-arrest among probationers, while responses ranged from proactive patrols, aggressive order maintenance, foot patrols, situational crime prevention techniques (such as target hardening and improved lighting) and involving the community in crime prevention efforts. Forty-five other evaluations considered also generally indicated that POP reduced crime and disorder, although these studies were less rigorous (that is, they measured outcomes before and after the POP program, but did not involve a control group) (Weisburd et al. 2008).

Despite these positive findings, some caution needs to be exercised in generalising from these findings, given the small number of high-quality evaluations and the great diversity in the POP programs (Weisburd et al. 2008).

How have problem-solving approaches been used in Queensland's Indigenous communities?

The QPS has implemented a formal problem-solving framework, Problem-Oriented and Partnership Policing (POPP), since 1999 (QPS 2003a; see also QPS 2008b). The QPS promotes problem-solving and partnership policing in a number of ways. These include:

- By encouraging the development of POPP projects, for which officers can make an application to attract funding support.
- The Office of the Commissioner administers a central budget of $275 000 and distributes this funding throughout Queensland to support local problem solving initiatives. All such projects that receive funding must include some evaluation component (QPS correspondence to the CMC dated 3 September 2009)
- OIC position descriptions in Queensland's Indigenous communities include a selection criteria requiring that applicants be able to demonstrate they can apply problem-solving and proactive approaches.
- The QPS's Operational Performance Review (OPR) process is based on the principles of problem-solving and intelligence-led policing. The OPR is said to 'focus operational police on identifying, analysing and responding to and assessing crime and disorder problems in the community' (QPS correspondence to the CMC dated 3 September 2009).
- The current QPS Strategic Plan continues to emphasise preventive and partnership approaches.

However, it is our view that the POPP approach is largely confined to project-based activity and it has yet to be embraced by the QPS as a core philosophical approach to policing activity.

The QPS Indigenous Driver Licensing Program provides a notable example of a successful POPP project in Queensland's Indigenous communities. After the problem of unlicensed driving in Queensland's Indigenous communities was raised in some detail in the Cape York Justice Study (2001, pp. 131–6), there was an increased problem-oriented and partnership approach to dealing with it. From 1998 to 2006 the QPS conducted the Indigenous Driver Licensing Program for remote areas. The program responded to the fact that in many cases learning difficulties and inaccessibility of opportunities for licensing were leading to Indigenous people driving unlicensed. Over 4000 people in Queensland's Indigenous communities obtained their driver's licence through the program. The QPS states that as a result of the program there was increased access to employment opportunities and fewer people were incarcerated for licence-related offences. The program has now transitioned to Queensland Transport (submission of the QPS, p. 8; see also Cunneen, Collings & Ralph 2005, pp. 117–18).

We found that communities consistently and clearly articulated their need for more proactive policing. A view commonly put to us in consultations with communities was that the police were too reactive. People commented that police 'only come out if it is something really serious', sometimes when it is too late, often the following day. People said that police often do not respond until after someone has already been badly hurt or killed. Community justice group members in one community advised that they had taken this concern up with the QPS on many occasions (including with the Commissioner of Police), but the response was always that police are busy following up after serious incidents, making inquiries and doing the paperwork. One community justice group member described police priorities thus: 'it is always: serious offence, then do the paperwork, serious offence, then the paperwork ...'.

Police themselves told us they were principally operating in a reactive mode; that is, mostly police are busy responding to calls for service — usually a reported serious crime. A much smaller proportion of police work can be described as proactive or preventive in nature. The following factors were described by police as contributing to their principally reactive focus:

- police have high workloads arising from high rates of crime and disorder problems
- at the time of our initial consultations, some of the police stations did not have a permanent OIC and some locations were operating well under the then-allocated number of officers
- efforts to enforce alcohol restrictions (which are arguably preventive in respect of violent crime) also took up considerable police time in several locations.

During our initial consultations in 2007 a number of police said to us that they would like to be more proactive and were looking forward to the increase in police numbers that had been announced, which they believed would assist. At this time few OICs were able to point to organised preventive or problem-oriented projects or programs, or even to informal proactive policing activities. When asked about preventive policing, most police mentioned alcohol management or involvement in sporting or other activities with young people. There were a small number of OICs who were notable exceptions: placing a great deal of emphasis on prevention and problem-solving, they were informally applying a POPP-type approach to much of their work.

Our final consultations with police conducted in 2009 suggest that the increased numbers of police in many communities had not resulted in general in a shift toward more proactive problem-solving strategies. The increased numbers of officers are apparently largely absorbed in incident-based law enforcement activity, particularly enforcement of the AMPs. Again there were a small number of OICs who provide striking exceptions and for whom problem-solving and partnership approaches are central to what they see to be effective policing in these communities.

A problem-solving approach: glow-sticks at Aurukun

One OIC appeared to approach policing issues wherever possible in a problem-solving and partnership oriented way. One example he gave was of trouble that had arisen with young people in Aurukun using hand-held lasers in a dangerous way. This created a possible hazard for air traffic; the Royal Flying Doctor Service, for example, was threatening to refuse to land at the local airstrip because of the threat posed by the lasers.

One option would have been to try to catch and prosecute these young offenders for the offence of 'endangering the safe use of a vehicle by directing a beam of light from a laser', which carries a maximum penalty of two years jail. Rather than take this law enforcement approach, the OIC was able to use funds raised from the police station's vending machine to buy glow-sticks. He invited young people to come in and exchange their lasers for the glow-sticks. He said this strategy had an unforeseen benefit also — the kids decorated their bikes with the glow-sticks and thereby solved the ongoing problem of them being unable to be easily seen by drivers when they were riding around the community on the roads at night.

It is our view that, because the effectiveness of problem-solving and partnership strategies is supported by research and they have been used effectively in Queensland Indigenous communities previously, not only should the QPS encourage greater use of POPP projects, but the problem-solving and partnership philosophy ought to be seen as being at the very core of policing in all Queensland's Indigenous communities.

Sport and recreation programs

For many years police have been involved in providing sport and recreation programs for young people in order to promote young people's positive development. The QPS has been involved in the operation of one such program, Police–Citizens Youth Clubs (PCYCs), for over 60 years in Queensland and it is well known.[162]

Are sport and recreation programs effective?

It is often argued that sporting programs for delinquent and at-risk juveniles can have important crime prevention effects. For example:

- Cameron and MacDougall (2000) assert that there is 'encouraging' evidence that engaging youths in sport and physical activity can help to reduce crime, at least when such programs are carefully planned, are tailored to specific needs, are offered within a supportive social context and are offered in combination with other crime prevention strategies.
- Morris et al. (2003) suggest that sport and physical activity programs, by facilitating juveniles' personal and social development, can result in improved behaviour.
- In Indigenous communities, Tatz (1994, 1995, cited in Cameron & MacDougall 2000) has argued that sports carnivals organised by local communities have been successful in reducing drug and alcohol use, petrol sniffing and rates of juvenile offending in the short term.

During consultations, we heard that it is strongly believed by people in communities, by police, and by others in government, that sport and recreation programs do have an important crime prevention effect in these communities. Anecdotal evidence was provided in support of such claims.

162 PCYCs are supported by a partnership of agencies including the QPS, the Queensland Police Citizens Youth Welfare Association and Sport and Recreation Services within the Department of Communities (previously Department of Local Government, Sport and Recreation).

Unfortunately, despite these claims, police recreation activities with juveniles and community-based sporting programs have been subjected to very few rigorous evaluations (Sherman & Eck 2002, p. 322). We are aware of no such evaluation that has been carried out in Queensland's Indigenous communities. Although particular programs elsewhere have been found to have other important positive effects,[163] there is very little empirical evidence that sport and physical activity programs in general reduce or prevent offending among young people (Smith & Waddington 2004). This is not to say that such programs are definitely ineffective — particularly in the unique circumstances of Indigenous communities where boredom and lack of appropriate supervision are often said to be associated with young peoples' offending behaviour — but there is a risk of relying on these initiatives to prevent crime when there is little research evidence to support their effectiveness.

More rigorous and systematic evaluations are needed to identify whether or not sporting programs for juveniles successfully prevent crime and, if so, under what circumstances and in conjunction with what other strategies.

How have sport and recreation programs been applied in Queensland's Indigenous communities?

Sport and recreation programs for young people have been a popular strategy proposed to address youth crime in Queensland's Indigenous communities. For example:

- The Royal Commission (recommendations 62, 210, 236–238) suggested the need for sport and recreation opportunities to combat boredom, which can lead to involvement in juvenile crime. These recommendations led to the establishment of the Local Indigenous Recreation Officers Program operating in a number of Queensland's Indigenous communities. The Cape York Justice Study noted that this program was to be wound up in 2001 (after it had received one three-year funding cycle) and that the program suffered from many unfilled positions, and lack of recurrent funding, training and support (Fitzgerald 2001, p. 128).
- The *Cape York Justice Study report* (2001, p. 129) described the potential for sport and recreation activities throughout Cape York communities as 'largely untapped'. It included recommendations that the government commit to funding sport and recreation initiatives in each community (to be negotiated with each community and agreed in local-level justice agreements), possibly including recurrent funding for local Indigenous sport and recreation officers. It also recommended that the QPS develop PCYCs in all Indigenous communities.

In the late 1990s, with funds obtained from the Australian Government, the QPS implemented a community policing initiative, the Youth Drug and Alcohol Diversion Project, in Indigenous communities. The program provided $2000 grants on application for projects to be run in individual communities, including camping trips, sporting trips, regular sporting activities and cultural activities. An evaluation was published in August 1998. Fitzgerald states that the evaluation did 'not give police adequate opportunity to establish the success of their programs clearly' but that project officers reported their perceptions of 'improved attitudes of young people, greater respect from community members toward police, and better understanding amongst police of issues facing young people' (Fitzgerald 2001, p. 128).

In Queensland's Indigenous communities, sport and recreation programs provided by the QPS are said to be an 'important link' between the QPS and young people of the community, and in some communities they have been established as a 'diversionary strategy' in response to youth crime problems (submission of the QPS, p. 6). Currently in Queensland's Indigenous communities the QPS operates the following sport and recreation programs:

- PCYCs in Palm Island, Mornington Island and Yarrabah. Proposals for the development of a PCYC at Doomadgee are currently under discussion. Existing PCYCs provide important facilities to these communities and are the site of many programs run by the PCYC or in

163 For example, the West Yorkshire Sports Counselling Scheme and the Leyton Orient Community Sports Programme in London (see Smith & Waddington 2004).

partnership with other agencies. For example, the Yarrabah PCYC has been said by the QPS to attract 200–300 children per night (QPS 2003b). Generally a police officer acts as manager of a PCYC and in these communities PLOs play a key role in operation of these clubs.

- The QPS has also developed a variation of the PCYC concept, called the Community Activity Programs through Education (CAPE) program, which has been developed since 2004 and is provided in Napranum, Wujal Wujal and Hope Vale. There are plans to expand the program across Cape York (submission of the QPS, p. 7) and funding has been allocated to support this expansion. The CAPE program was developed because PCYCs were operating in only three of Queensland's Indigenous communities and they are expensive to establish. The QPS has stated that it cannot support PCYCs in all Cape York communities (QPS submission, p. 7). The CAPE program provides training to Indigenous Sport and Recreation Officers, using existing community facilities. The QPS submission (p. 7) states that it 'provides a PLO and Senior Sergeant as Coordinator and the PCYC provides support through its resources and management model'.
- A Cherbourg Police and Community Youth Project manages the Cherbourg Recreation facility. The project provides police supervision of events and activities, with community assistance, on Thursday and Friday nights and during school holidays. This project is said to be the first step in establishing a PCYC in Cherbourg (submission of the QPS, p. 7).[164]

Each of these programs provides more than sport and recreation activities — they all involve the QPS in providing children in Indigenous communities with food, care, access to resources, a safe environment and the opportunity to participate in social as well as developmental activities.

The PCYC and CAPE programs are a reliable provider of sporting and recreation programs, and a wide range of other programs, for young people in Queensland's Indigenous communities. Whereas other programs are often not sustained, PCYCs have had success in this regard. The QPS submission (p. 7) states: 'Anecdotal evidence also suggests that funding bodies may take confidence in providing financial support for programs and initiatives in Indigenous communities that are linked with PCYCs' (submission of the QPS, p. 7).

The QPS not only provides organisational stability and an ongoing presence in Queensland's Indigenous communities to ensure that programs continue, but also has had success in ensuring that facilities are maintained and not damaged or destroyed. A common complaint made otherwise with respect to expensive sporting facilities and equipment — such as pools and playgrounds — is that they are quickly damaged and destroyed in Queensland's Indigenous communities. For example, at the time of our initial consultations in Aurukun, organised sports activities had ceased, and the government-funded swimming pool and indoor gymnasium and courts had closed — all had been extensively vandalised. We also heard that the pool in Woorabinda has more recently suffered a similar fate to that in Aurukun.

Sport and recreation programs such as PCYCs and the CAPE program appear likely to have some positive results for the young people involved. Although the CAPE program provides a cheaper alternative to PCYCs, the involvement of police officers in that program will be limited, so its value for improving relations between young people and police may also be limited.

It is our view that there are strong reasons that sport and recreation services in Indigenous communities should be continued and sustained. The QPS has stated that it supports the expansion of PCYCs, CAPE programs or similar programs in other Indigenous communities 'dependent on resourcing and support' (submission of the QPS, p. 7). The QPS certainly has the capacity to ensure that such programs are provided with dependability.

164 The QPS submission (p. 7) claims that the project has had promising results in reducing juvenile crime, substance abuse and truancy.

However, there are real questions about whether sport and recreation programs should be the responsibility of the police under the guise of crime prevention. The crime prevention effectiveness of such programs is unproven. Although they may have the capacity to enhance relations, these programs are increasingly operated by the QPS in such a way as to minimise the drain on police staff resources; therefore they may not substantially increase contact between young people and operational police, and may have limited potential to improve relations with those officers.

Ideally, sport and recreation programs of the type currently provided by the QPS in Queensland's Indigenous communities would be provided by the community members themselves or by community-based providers. Given the history, however, of such efforts in the past 'falling over' within a short period, and given minimal non-recurrent government funding for such community-based programs, we cannot recommend that sport and recreation programs be transferred from the QPS to the community or community-based providers — to do so would be too likely to lead to the result that in the not too distant future the provision of such sport and recreation programs in Queensland's Indigenous communities would falter. Further, we saw that in some communities, at least, the PCYC was the key point of community engagement and activity. On Mornington Island, for example, the PCYC appeared to be the primary site for community development activities, undertaken in the name of crime prevention. Its operations are described in the accompanying text box.

The Mornington Island PCYC

In addition to the support provided to the Mornington Island PCYC through the QPS, this PCYC receives funding from a variety of sources, including Oxfam Australia and the Queensland Government's Department of Communities. The PCYC is involved in delivering a wide range of community development activities in addition to sport and recreation programs:

- A 'breakfast club', which provides breakfast before school to young people (the Sergeant in charge of the Mornington Island PCYC informed us that between 20 and 70 young people usually attend for breakfast and that 10 381 breakfasts were served in 2008 through the program). This program also incorporates a 'breathe, blow, cough' activity for all children involved in PCYC programs to help clear Eustachian tubes and prevent otitis media (a form of ear infection).
- Programs to improve school attendance. For example, transport to school is provided in the PCYC bus and the PLOs also run a program where they talk to and offer assistance to the families whose children most frequently do not attend school.
- An after-school program that includes sport, arts and crafts, and cultural workshops run by a PLO.
- A dinner program.
- Evening activities until about 9 pm, such as touch football.
- A 'street to sleep program', which uses the PCYC bus to drive around at night and pick up children so that they can fall asleep on the bus and then be taken home to bed.
- Assistance to keep families in touch with young people away at boarding school (for example, by providing 'Skype' facilities).
- School holiday programs, including in 2008 an intensive '10 days of Christmas program' to provide community activities such as sporting competitions, discos and films from early evening until midnight over the Christmas to New Year period (a period historically characterised by high violence).

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The PCYC programs are focused on problem-solving and opportunity reduction, but they also have a substantial capacity-building component.

The activities of the PCYC are extensive, and there is no doubt they provide a great deal of the kind of support to young people on the island that would normally be provided by parents and families. This makes the capacity-building component of the PCYC operations vital and the Sergeant in charge of the PCYC seemed well aware of this. His goal is to always work toward more community involvement and responsibility for the programs provided, and to ensure that community development and capacity building through skills transfer are always taking place. Programs being delivered through the PCYC were designed to encourage young people and other community members to develop skills — for example, the breakfast and dinner programs involve education and skill development in cooking and nutrition.

It was suggested that some programs were now emerging from the 'ground up' through the PCYC, such as a young mothers' playgroup.

In such circumstances, where the PCYC appears to have achieved a fairly rare level of community engagement and participation, sustaining this effort is particularly important (as long as capacity-building strategies are also continued).

We heard strong community support for the continuing police involvement in sport and recreation activities generally. Several officers endorsed statements along the lines of 'I'd rather chase kids around a footy field for an hour than chase them around town all night.'

For the reasons we have outlined relating to the unique circumstances of Queensland's Indigenous communities, despite the paucity of empirical evidence demonstrating the crime prevention effectiveness of sport and recreation programs, we would encourage police to stay involved as a means of linking and engaging with communities, building positive relationships, and maintaining a site for problem-solving and partnership approaches to operate, and potentially for community capacity building and community development work to be done. Further, in the unique circumstances of Indigenous communities — in which boredom and poor supervision of children and young people is frequently said to be a contributing factor in offending behaviour, and the need for community capacity building is so crucial — it may be that sport and recreation programs can pay an important role in crime prevention.

Are there policing strategies that effectively reduce violent crime?

Unfortunately, there is limited evidence about effective police strategies to combat violence. For example, there is no clear evidence about how police can prevent murders (see Sherman & Eck 2002, p. 314). However, there are several common ways police may respond to domestic violence. For many of these responses, there is little empirical evidence that they effectively deter offenders and prevent future episodes of violence:

- As discussed above, research indicates that, although the use of arrest may reduce re-offending among employed offenders, the use of arrest may actually increase re-offending among unemployed offenders (for an overview, see Schmidt & Sherman 1996; Sherman 1996). Research by Marciniak (1994, cited in Sherman 1996) has suggested that arrest will lead to increased re-offending if the offender lives in a neighbourhood dominated by unemployed and single-parent households, regardless of an individual offender's own circumstances.

- There is also little empirical evidence for the effectiveness of second responder programs.[165] In a systematic review of 10 control group evaluations, Davis, Weisburd and Taylor (2008) found that second responder programs had no effect on the likelihood of further violence against the victim, although they did increase victims' confidence in the police and the likelihood that they would seek police assistance.

One policing program that has had some success is a three-tiered approach used to reduce repeat victimisation in Killingbeck (Leeds) in the United Kingdom (Hanmer, Griffiths & Jerwood 1999). The model used in Killingbeck involves increasingly intense police interventions for each subsequent incident they attend. The police response focuses equally on protecting the victim and deterring the offender.[166] Results from the program indicate that it has been effective in increasing reporting rates, reducing repeat attendances, increasing the time between attendances, and reducing the number of chronic repeat offenders (Hanmer & Griffiths 2000; Hanmer, Griffiths & Jerwood 1999). Encouraging preliminary results were also reported for a similar program in South Australia (Millbank, Riches & Prior 2000).

Focusing on the development of responses to repeat victimisation may therefore be an effective police response to domestic violence. This has previously been recognised by the CMC, which recommended in 2005 that the QPS implement a structured, case management approach to deal with chronic repeat calls for service to domestic violence incidents. The CMC recommended that such an approach should, at the least, focus on:

- using a problem-solving approach to identify families that produce repeat calls for service, analyse the causes of the problem and develop strategies to solve them
- recording all information relevant to the family's history
- allocating a case management officer
- working in partnership with other agencies to develop and provide effective responses
- regular monitoring and reviewing (CMC 2005).

The Cape York Justice Study (2001) also noted that the Leeds project could provide strategies worth trying in Queensland's Indigenous communities. We found no evidence that this has occurred.

There is also evidence suggesting that the 'Duluth Model' for domestic violence intervention may be successful in offering greater victim protection and reducing repeat acts of violence in many different communities. Key features of this model are:

- a coordinated community response
- mandatory arrest for primary aggressors
- the use of court-ordered 'batterers' treatment' and education programs
- swift, consistent consequences (jail or return to the program) for non-compliance with conditions of probation, court orders or program violations such as missing sessions and further acts of violence (see website information at <www.theduluthmodel.org/research.php>).

165 These programs typically involve a police officer and victim advocate conducting follow-up visits to households soon after domestic violence complaints. Victims are usually provided with information about support services and legal options, and assisted where necessary to develop a safety plan, obtain a restraining order and arrange shelter.

166 Victim-focused responses include providing information, community constable visits, cocoon watches (where relatives, neighbours and other agencies contact the police if further incidents occur), and panic buttons. Offender-focused responses include official warnings and police watches, where twice-weekly police patrols are conducted in the vicinity of the incident for a period of six weeks (see Hanmer, Griffiths & Jerwood 1999 for more information).

Such approaches may be more effective in terms of enhancing victims' safety, as well as more efficient in terms of better managing the use of police resources. Much more research is needed, however, to draw confident conclusions about the effectiveness of such responses and their applicability to different communities.

Summary and conclusions: strategies to enhance policing in Queensland's Indigenous communities

The challenge for the QPS is to provide 'more' policing to Queensland's Indigenous communities in a way that:

- maximises the crime prevention effect of police action
- improves rather than damages police–community relations.

This chapter has highlighted a number of policing strategies that may help the QPS to achieve these goals. We believe that consideration of the research evidence, together with information we obtained during consultations, points to the vital importance of QPS officers conceiving of their role in policing in Queensland's Indigenous communities broadly — to include more than mere law enforcement. If crime is to be reduced in Queensland's Indigenous communities, police (who generally have the largest on-the-ground government presence) must play an important crime prevention role. There are several policing strategies that have been shown through research to have crime prevention potential or to be effective in reducing crime.

Catching criminals and putting them before the courts will remain the predominant crime prevention strategy for police. However, the modern police officer has skills that extend well beyond a narrow focus on law enforcement. In particular, police have two key frameworks — that of community policing and that of problem-solving and partnership policing — through which we believe they can play a larger crime prevention role, and do so in a way that improves relations.

Community policing

The community policing philosophy has provided an important influence on the QPS approach to improving relations between police and Indigenous communities, particularly since the Royal Commission into Aboriginal Deaths in Custody. It appears, however, that there is currently less explicit emphasis on community policing than there has been in the past. This may result from the research evidence that many community policing strategies have little crime prevention value, although many may improve citizens' perceptions of police and reduce fear of crime. Strategies that focus on promoting police legitimacy, however, may help to reduce crime.

It is our view that the evidence from research and from consultations points to the need for the QPS to revisit two principles, in particular, that are central to the philosophy of community policing:

1. Enhancing community involvement in policing, including in relation to:
    - policing and crime priorities
    - issues of availability and responsiveness of police
    - issues of informal interaction with police
2. Promoting police legitimacy through a new focus on perceptions of fairness and procedural justice.

What we heard Queensland's Indigenous communities asking for was very much a 'community policing' approach; they desired an improved quantity and quality of contact between police and community members in efforts to reduce crime.

Enhancing community involvement

We identified at least three areas of mismatch between community views or expectations and those of the police: crime priorities, availability and responsiveness, and informal interaction with police. It is suggested that having greater community involvement in policing could help to close the gap in each of these areas.

It is our belief that in Queensland's Indigenous communities the QPS should make better use of existing forums and processes to provide opportunities for community involvement in policing. The Negotiation Tables and the LIPs process would seem to be the best vehicles to use for this purpose.[167]

Policing and crime priorities

Police priorities were criticised at the majority of our meetings in the communities. Police were often said to place too low a priority on problems that are important to the community, instead focusing on responding to serious crime after it occurs and enforcing alcohol and traffic laws. It is a concern that, for example, noisy parties and the associated problems were consistently identified by communities to be a major problem but were not identified as such by any police.

Consistent with this, we found little evidence of community involvement in policing at the fundamental level of discussing and agreeing on crime priorities or policing strategies. In particular, we found little evidence of local justice agreements or community safety plans or suchlike, despite various recommendations and commitments of governments made along these lines. During our consultations, we also frequently heard from people who were frustrated at not being able to access any official information about the level of crime in their own community, although this has now been rectified in many communities by quarterly reports published by the Queensland Government.

➡ Action

In accordance with good community policing practice, each of Queensland's Indigenous communities and their local police must discuss and agree on a number of crime priorities and policing strategies on a regular basis — at the very least, whenever any new OIC is appointed. These priorities and strategies must be documented in local-level plans:

- **crime data at the community level (including 'law and order' by-law offence data where relevant), as well as evidence about the effectiveness of various policing strategies, should form the basis of these regular discussions between local police, other relevant Queensland Government agencies and members of Queensland's Indigenous communities; such discussions must build community capacity in this regard**
- **the discussion and agreement of crime priorities and strategies in the local plans should inform the allocation of policing resources by the QPS to particular communities.**

Our discussion in Chapter 19 is also relevant to the implementation of this action. There we provide some consideration of how such a discussion with members of Queensland's Indigenous communities could be conducted to ascertain an appropriate level of agreement about a number of policing priorities and strategies as we have suggested.

167 In some places community members said they were excluded, or felt excluded from these processes.

➡ Action

The crime prevention and criminal justice (including policing) component of the local plans will be independently audited at the local level by the CMC in 2013 (in a way similar to the audits of local-level policing plans for Indigenous communities that have been conducted by the NSW Ombudsman (NSW Ombudsman 2005)); the audits should assess whether police are pursuing strategies that could reasonably be expected to maximise their crime prevention effect and to police in a way that is likely to improve relations.

Availability and responsiveness of police

We found in Chapter 8 that the perceived lack of adequate police availability and responsiveness clearly contributes to a lack of trust and confidence in police in Queensland's Indigenous communities. In this chapter we have observed that, although some real problems no doubt exist, such as in the outer islands of the Torres Strait where there is no permanent police presence, there are also issues that may be about unrealistic community expectations, or lack of communication from police, that contribute to the perceptions of a problem in this area and that could be easily resolved.

➡ Action

In accordance with good community policing practice, the QPS should take steps to address the concerns about inadequate police availability and response by, for example:

- **remaining in touch with views of local police and communities about whether the level of police services is adequate, especially in the wake of the decision to phase out community police and QATSIP (see Chapter 10)**
- **ensuring that every police station has regular and well-advertised opening hours**
- **educating community members about call diversion, about the importance of not hanging up when a call is diverted and about how a communications centre operator will assess whether it is necessary to call local police out to assist**
- **providing a program of regular cultural education and training to QPS communications centre operators about Queensland's Indigenous communities; this training should include training about the difficulties involved for callers from these areas in having their calls diverted, and the importance of carefully communicating and assessing these calls, as well as practical information such as community maps, and common family names and pronunciations for some communities where traditional names remain common (for example, Aurukun, Pormpuraaw and the Torres Strait Islands) (see also Chapter 11 regarding cultural training).**

Informal interaction

We found that people were very keen for police to be involved in community life. Community members emphasised the importance of having opportunities to interact with police officers informally, although many perceived that police had withdrawn from community involvement in recent times. People told us that they want police to come to community events, to play sport and work with young people, to support community programs, and especially to be seen walking around town and talking to people. The message to police was: be visible around town and be approachable; people are very keen to know their local officers.

➡ Action

In accordance with providing good community policing, that the QPS devise measures or incentives that encourage officers in Queensland's Indigenous communities to participate in community life; a clear message needs to be sent from the service that this is an important aspect of policing in a small community. For example, one option may be for the QPS to encourage participation in sport and recreation activities by supporting officers to participate in such activities during work time rather than in their own time, or by supporting them in obtaining a coaching qualification.

That the Indigenous local councils, community justice groups and community members actively seek to engage with police and issue invitations to, or advise them of, community events and activities.

Focusing on fairness

In addition to evidence suggesting that there is value in enhancing community involvement in policing, there is evidence to suggest that an improved focus on fairness may not only assist relations but also have a crime prevention effect.

Consultation with communities indicated that people's perceptions of whether or not policing activities are 'fair' have important effects on police–community relations. People commonly indicated that fairness involved knowing what to expect, seeing the law enforced equally, being treated with respect, and having officers who 'relate well' to Indigenous people. The existence and policing of Alcohol Management Plans were often associated with complaints about fairness and procedural justice.

➡ Action

That the QPS ensure that police are focused on the importance of improving perceptions of fairness and police legitimacy in Queensland's Indigenous communities, particularly in relation to ensuring that procedural fairness is done, and is seen to be done, wherever possible. There is obvious scope for specific programs to be developed in relation to traffic offences, alcohol restrictions and relatively minor public order offences. Options include local police committing to:

- programs that follow the Educate, Implement and Enforce approach described above
- a program that focuses on providing offenders, whenever possible, with an opportunity to meet with the OIC, who could explain the program, outline why they have been arrested, give them a chance to express their views, listen respectfully to them and answer any questions (see, for example, Sherman & Eck 2002, p. 315).

Patrolling

Police patrols may be conducted randomly (non-directed patrols) or targeted at high-crime times or places (directed patrols). Although research indicates that non-directed patrols do not prevent crime, there is strong evidence to suggest that directed patrols do. There are some concerns, however, that increasing the visibility or level of activity of police can lower community trust and confidence in police if it is perceived to be aggressive.

We heard criticisms that police in Queensland's Indigenous communities are either only seen driving around town or rarely seen at all. It was clear that people want police to have a visible presence around the community to reassure people and deter antisocial behaviour. However, a number of constraints on patrolling were explained by police, including high workloads, the unattractiveness of foot patrols in comparison with vehicle patrols, concerns about safety on foot patrols, and the limited ability of officers to work overtime shifts.

➡ Action

That the Queensland Government and the QPS require OICs in Queensland's Indigenous communities to make greater efforts to match rostering to those times when crimes are most likely to be committed. That regular targeted patrols that are brief in their average duration and unpredictable should form a standard part of police practice in these communities. These patrols should be used wherever possible with problem-specific tactics (such as POPP). Patrols should be seen as a key opportunity for increasing community engagement.

Arrests

Arrests can either be made in response to specific complaints (reactive arrests) or be directed at a small number of high-risk targets such as chronic serious offenders or high-risk times for drink driving (proactive arrests). Research suggests that reactive arrests generally have no general or individual deterrent effects, and may actually increase the likelihood of re-offending among juveniles and unemployed domestic violence offenders. In contrast, it appears that proactive arrests can prevent crime when targeted at repeat and persistent offenders. Other evidence also indicates that people are less likely to commit an offence when they perceive that there is a high chance of being apprehended.

Part 3 of this report provides detailed consideration of the issues surrounding the use of arrest and alternatives to arrest in Queensland's Indigenous communities.

Problem-solving and partnership policing

Problem-solving and partnership policing represents a shift away from standard, reactive policing activities towards police closely examining the underlying causes of crime problems in order to develop strategies (with others) to reduce them. Research indicates that such problem-oriented policing approaches can modestly but significantly reduce a range of different crimes, particularly when police departments are committed to this style of policing.

The QPS has adopted a formal problem-solving and partnership approach, called Problem-Oriented and Partnership Policing, since 1999. In Queensland's Indigenous communities, a number of successful POPP projects have previously been developed, such as the QPS Indigenous Driver Licensing Program to tackle the problem of unlicensed driving. However, with the exception of a number of OICs who maintain a strong focus on problem-solving and partnership approaches in dealing with many problems, we found little evidence of problem-solving and partnership philosophies being seen as central to QPS service delivery in Queensland's Indigenous communities.

The communities themselves consistently and clearly articulated to us their need for more proactive policing. A number of local police officers were also keen to be more proactive, noting that high workloads, limited staff numbers and efforts to enforce alcohol restrictions currently prevented them from doing so.

➡ Action

As part of its improved focus on crime prevention, that the QPS promote problem-solving and partnership approaches to policing as a central philosophy for effective policing in Queensland's Indigenous communities. This should include, but not be limited to, POPP projects. The QPS should consider:

- increasing its support for evaluating problem-oriented and partnership strategies and devising methods to share knowledge across the service about effective strategies to inform other locations or contexts
- publicly reporting on problem-solving and partnership approaches and their effectiveness, perhaps in the Queensland Government's quarterly reports on key indicators (see Appendix 2 (June 2008)).

Sport and recreation programs

Having police provide sport and recreation programs for young people — particularly those engaged in, or at risk of, delinquency — has often been said to promote young people's positive development and prevent crime. Although anecdotal information suggests that some programs have in fact had important positive effects, a lack of empirical research prevents firm conclusions being made about whether or not sport and physical activity programs in general reduce or prevent juvenile crime.

In Queensland's Indigenous communities, sport and recreation programs for young people have been a popular strategy for preventing youth crime. Current initiatives include PCYCs and the CAPE program, and the QPS has stated its support for the expansion of these programs where possible.

Despite the paucity of evidence demonstrating the crime prevention effectiveness of sport and recreation programs, we would encourage the QPS to stay involved in sport and recreational activities in Queensland's Indigenous communities. PCYCs, in some communities at least, are effectively engaging with the community, have built positive relations and go beyond the provision of sport and recreation programs to provide a range of programs with some crime prevention potential. On Mornington Island the PCYC is a focal point for community activity and it appears to have become the primary site for community capacity building and community development work. It is important that these efforts are supported and sustained beyond the involvement of particular individuals who have worked hard to get these programs up and running.

➡ Action

That:

- Police continue to build on their previous involvement in providing sport and recreation programs in Queensland's Indigenous communities, as these have largely been seen as positive initiatives, are well received by community members and provide an important site for problem-solving, effective community engagement and capacity building. The Mornington Island PCYC provides an excellent example of such a model.
- Given the ability of the QPS to reliably sustain sport and recreation services in Queensland's Indigenous communities, greater support should be provided to the QPS to expand and develop its services along these lines. The Queensland Government and the Department of Communities (which now includes Sport and Recreation Services) should provide such support to the QPS.
- Given their long history, their cost and the lack of available evidence for the crime prevention effectiveness of initiatives such as PCYCs, greater effort should be made to evaluate these programs in Queensland's Indigenous communities.

Policing strategies for violent crime

There is limited evidence about effective police strategies to prevent forms of violence. For domestic violence in particular, research suggests that arrest may have positive effects for deterring employed offenders, but may increase re-offending among unemployed offenders or those in disadvantaged neighbourhoods. There is also little evidence for the effectiveness of second responder programs. Experiences in the United Kingdom indicate that having police focus on repeat victimisation, and providing a tiered approach to increasing the intensity of police interventions (addressing issues of both victim safety and offender motivation), may be the most effective way for police to prevent future episodes of domestic violence.

➡ Action

Given the scale of violence problems in Queensland's Indigenous communities, the QPS should consider implementing and evaluating a project based on a tiered approach to reducing repeat victimisation of domestic violence. Such a project could be negotiated and agreed with the community through the Negotiation Table and local planning process.

10

INDIGENOUS POLICE

One of the most frequently suggested solutions to the difficult relationship that exists between Indigenous communities and police is to increase the level of Indigenous people in policing roles, including as sworn police officers within the QPS (see, for example, Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999, pp. 232, 260–1; Johnston 1991, vol. 4; QPS 2006b, 2008b; McDougall 2006, p. 40). Although the QPS has had some success in increasing the number of Indigenous sworn police across Queensland as a whole, this has not happened to the same extent in Queensland's Indigenous communities, where Indigenous sworn police remain a rarity.

Two additional roles, unique to Indigenous communities, have been created in Queensland to enable Indigenous people to perform policing roles other than as sworn police. Both roles give Indigenous people limited policing powers to enable them to carry out some enforcement activities in addition to a range of other functions, such as liaison between the QPS and community members. These two roles are:

1. **Community police, who have been employed by local councils since the 1970s in many of Queensland's Indigenous communities**
2. **Queensland Aboriginal and Torres Strait Islander Police (QATSIP), a pilot program implemented by the QPS in 1999 in a small number of communities.**

In response to the recommendations of the Royal Commission into Aboriginal Deaths in Custody, since 1992 the QPS has also employed Indigenous civilians in the role of Police Liaison Officers (PLOs), mostly in regional and metropolitan areas (DICMU 2000). PLOs do not have any police powers to undertake enforcement activities but focus on liaison and relationship building.[168]

There have been several decades of uncertainty about the best model for Indigenous people to make a contribution in policing roles in Queensland's Indigenous communities. In particular, many difficulties have been identified over this long period in relation to community police and the capacity of local councils to support a policing function. In 2006, the Queensland Government announced that it would change to a standard service delivery model for Queensland's Indigenous communities in which:

- **community police and QATSIP are to be phased out**
- **policing services are to be delivered by sworn police and QPS-employed PLOs.**

Very little rationale for this change to a standard service delivery model was provided with the announcement which states:

> **The QPS is committed to the progressive replacement of the current Community Policing model, (funded by a combination of council funds and CDEP funds), and the QPS funded QATSIP scheme, with a combination of sworn QPS officers and QPS Indigenous Police Liaison Officers. This combination will ensure Indigenous communities are provided with a professional policing service comparable to that provided in non-Indigenous communities (Queensland Government 2006a, p. 27).**

168 PLOs are not unique to Indigenous communities. They also operate in urban areas and include people from other ethnic backgrounds.

It has not been a smooth change and Queensland's Indigenous communities remain in various states of 'transition' to the standard service delivery model.

This chapter examines the issues about Indigenous people in policing roles in Queensland and considers these questions:

1. **Why is it important to have Indigenous people in policing roles?**
2. **Why are these roles inherently difficult for Indigenous people?**
3. **What are the details of the three distinct roles of Indigenous sworn police, community police and QATSIP? What was our inquiry told about each?**
4. **What models are used in other jurisdictions?**
5. **What other forms of 'policing' — such as community patrols and security services — operate in these communities?**
6. **Can the standard service delivery model work in Queensland's Indigenous communities?**

We make recommendations that will help Indigenous people to effectively perform policing roles in Queensland's Indigenous communities.

Indigenous people in policing roles: why is this important in Indigenous communities?

Having Indigenous people in policing roles has the potential to improve relations between police and Indigenous communities. A variety of reasons have been given for the importance to relations of having Indigenous people in policing roles in their own communities. These include:

- to strengthen police legitimacy, because of the fundamental importance of police services in any community reflecting the composition of the community (Johnston 1991, vol. 4, p. 151); the recruitment of Indigenous police to a level that reflects the population of an area in a sense places a numerical value on the more abstract notion of 'policing by consent'
- to strengthen the internal social controls within Indigenous communities that have been severely disrupted since colonisation; it has been suggested, for example, that Indigenous police can provide good role models for Indigenous young people (NSW Ombudsman 2005; QPS 2003a)
- for reasons of self-management, self-determination and cultural appropriateness (see Blagg 2008; QPS 2003a)
- because it is integral to a community policing framework (see Weber 2007; Johnston 1991, vols. 3 & 4 , pp. 43 & 117; QPS 2003a, 2006b)
- to increase the diversion of Indigenous people from custody and reduce their overrepresentation in the criminal justice system (Blagg 2008; Cunneen 2007a, 2007b).

There are also practical benefits, which may in turn lead to improved relations:

- In the past particularly, but still today in some communities, Indigenous people in policing roles have been needed to supplement otherwise inadequate levels of policing services provided by the QPS (QPS 1994; see also Barnes 2005; Blagg 2008).
- Indigenous people in policing roles can provide vital assistance in overcoming language and cultural barriers. In some communities especially, without Indigenous people in policing roles working to help other police to understand the society in which they are operating, non-Indigenous police would find their jobs impossible. Equally, Indigenous people in policing roles may provide essential interpretative services in some communities so that offenders have an understanding of charges and the legal process.

- Indigenous officers may be able to win the trust and confidence of their 'own' communities. Securing the cooperation of members of Indigenous communities in this way may mean that victims will more readily report crimes, intelligence and information will be offered more frequently, and witnesses will be more likely to be forthcoming.

An inherently difficult role

We stated in Chapter 7 that relations between police and Indigenous communities can only be understood in a historical perspective and this is true also with respect to the relationship between Aboriginal communities and Indigenous people in policing roles. The Royal Commission described the great strain placed on Indigenous people in policing roles, and Elliot Johnston stated: 'We are encumbered with the baggage of history in this area as in so many others, but in this area the load is heavy' (Johnston 1991, vol. 4, p. 160).

Indigenous people have performed a variety of policing roles in Indigenous communities from colonisation to the present. For example, during our colonial past, Aboriginal people worked in 'native police' forces and as police trackers. In Queensland, native police had a well-deserved reputation for violence against Aboriginal people and were involved in the 'dispersal' of Aboriginal populations (Finnane 1987; Reynolds 1996; see also QPS 1994). Those who performed the roles of native police or trackers are sometimes seen as having betrayed their own people and culture. This history contributes to the complex relationship that Indigenous people in policing roles have with Indigenous communities today.

Experience in Australia suggests that Indigenous people in policing roles often feel isolated from their communities, who may regard them with suspicion and resentment.[169] It has been regularly noted, for example, that Indigenous people in policing roles are often derogatorily referred to by other Indigenous people as 'coconuts' (black on the outside, white on the inside) or 'Jacky Jackys' (see Johnston 1991, vol. 4, p. 160; QPS 1994, p. 92; see also NSW Standing Committee on Social Issues 2004, pp. 19–20).[170]

Only limited research has been conducted in Australia into the experience of serving Indigenous officers, but it shows that retention rates are low and that Indigenous people often:

- feel marginalised from their 'own' communities and from the service
- report experiencing institutional racism — that is, they feel that police services continue to reinforce systemic attitudes, values and beliefs that cause officers to be unconsciously and unintentionally discriminatory despite efforts to reform (Kamira 2001; see also NSW Ombudsman 2005, p. 10).

Because of the inherent difficulties faced by Indigenous people in policing roles, the Royal Commission noted that it could not recommend for or against any particular model but instead suggested that different models should be explored and efforts should be understood within a framework that considers them to be experimental, tentative, not likely to be always successful, and liable to be misunderstood. It was noted that adjustments would need to be made in the light of experience, and what seems to work best in particular communities should be applied (Johnston 1991, vol. 4, p. 160).

The situation in the Torres Strait Islands, because of their different history from other Indigenous communities in Queensland and their different culture, is distinct. Indigenous people in policing roles in the Torres Strait Islands face many challenges, but generally it is thought that being an Indigenous person in a policing role is less problematic there.

169 In Britain, where efforts have been made in recent years to increase the number of minority ethnic police in order to improve relations with these communities, it has similarly been noted that those recruited often come to experience a process of isolation from their own communities (see, for example, Rowe 2004).

170 We were also told this in our consultations by a number of Indigenous people acting in policing roles (see below).

We were told by local police and others in the Torres Strait Islands that they have 'a proud history of self-policing' (see QPS 2006b, p. 28; see also Loban 2006; submission of Torres Strait Islands community police, p. 1).

Current policing service delivery models in Queensland's Indigenous communities

At the time of our consultations, the service delivery model for policing varied considerably across the Indigenous communities. At different locations there were:

- sworn QPS police only (for example, Hope Vale)
- sworn police and Indigenous community police (for example, Aurukun)
- sworn police and QATSIP (for example, Yarrabah)
- sworn police, PLOs and community police (for example, Cherbourg, where the PLOs are attached to nearby Murgon police division)
- sworn police and PLOs (for example, Thursday Island, Horn Island, Palm Island, Mornington Island)
- QATSIP only (for example, Badu Island)
- community police only (for example, outer islands of the Torres Strait other than Badu).

In some locations there was also either a community security service or a community or night patrol in operation, in effect supplementing the policing service (see the further discussion below regarding other forms of policing).

The standard service delivery model

The QPS has described the situation outlined above, in which Indigenous people are involved with a mix of powers, duties, roles and responsibilities, as 'problematic' (QPS 2006b, p. 24). In late 2006 the Queensland Government announced that it would move to a standard model of policing service delivery in its response to the evaluation by Cunneen, Collings and Ralph (2005) of the Aboriginal and Torres Strait Islander Justice Agreement (Queensland Government 2006a). This standardised model for policing service delivery is to comprise sworn police officers, supported by PLOs only; community police and QATSIP officers are to be phased out. The need for increased Indigenous representation within the new model has been acknowledged by the QPS, particularly the 'ultimate goal of employing more Indigenous people as fully sworn police officers' (QPS 2006b, p. 24; see also QPS 2008b).

The government's announcement of the move to a standard service delivery model for policing in Indigenous communities has been explained in terms of the need 'to ensure quality' and provide 'comparable' service delivery across Queensland (Queensland Government 2006a). The QPS submission (p. 4) states that underpinning the government's decision is the 'philosophy that Indigenous communities should be provided with the same level of policing as in non-Indigenous communities'.

The model of policing services being provided by sworn officers and PLOs represents a major departure from relatively longstanding policy and practice in Queensland's Indigenous communities and is contrary to the recommendations of previous reports, including the evaluation of the Justice Agreement, which expressed support for the QATSIP scheme in particular (see Fitzgerald 2001; Cunneen, Collings & Ralph 2005; QPS 2003a). It is, however, consistent with a broader trend towards 'mainstreaming' the delivery of services to Indigenous people (see QPS 2006b, p. 24).[171]

171 The inconsistency between this policy approach and the agreed model for criminal justice service delivery in Queensland's Indigenous communities is discussed in more detail in Part 4.

A QPS report subsequent to the announcement of the move to the model of sworn police and PLOs acknowledges that 'a separate approach may be required when identifying options and implementing a preferred model for policing in Torres Strait Islander communities' (QPS 2006b, p. 4).

The outcomes of the announcement have been poorly managed; in some areas the 'transition' has caused significant disruption and turmoil in the delivery of policing services that could have been avoided. There is little doubt that this confusion has been added to by the Australian Government's changes regarding the administration of CDEP in these communities. Responsibility for local administration of CDEP in many communities has been removed from the councils and there has been a reduction in the scope of services council are able to provide; in many cases this has contributed to councils hastily terminating their community policing function. For example, when we visited Napranum, Injinoo, Doomadgee and Lockhart River, the councils in these communities had recently terminated the employment of their community police,[172] but community police continued in the communities of Cherbourg, Kowanyama, Pormpuraaw, Aurukun and Bamaga, and in 13 of the Torres Strait Islands.

During our consultations we heard from:

- some police that the decision had created a lot of confusion in the communities; one senior officer stated 'no-one knew what was happening … how it was handled was appalling'
- community members that 'everyone was kept in the dark' as there was no consultation on the change.

Immediately after the government's announcement, the QPS offered QATSIP officers at Yarrabah and Woorabinda employment as PLOs; however, according to senior police, within days of the government's announcement all five QATSIP officers serving at Woorabinda resigned. Subsequent to our consultations in Yarrabah, the QATSIP scheme there was to be concluded in mid-2008. However, our final consultations conducted in 2009 indicated that a number of QATSIP continue to be employed by the QPS at Yarrabah and that these QATSIP did not want to become PLOs. At Badu, however, the QPS has decided that it will continue the QATSIP scheme until such time as there is a permanent QPS presence established there (submission of the QPS, p. 5). This may take some years and may depend entirely on increased funding becoming available to support it.

Despite the announcement of the move to a standard service delivery model in Queensland, the reality is that Indigenous people continue to perform a variety of policing roles in Indigenous communities, including as sworn police, PLOs, community police and QATSIP. The key distinctions between these roles are:

- whether they have a law enforcement role in addition to other roles such as liaison
- the extent to which they are integrated into the QPS.

Indigenous sworn police

The QPS has had some success in recruiting and retaining Indigenous people as sworn police. One notable example is Indigenous police officer Col Dillon, who had a long and influential career within the QPS for over 35 years from the 1960s, achieving the rank of Inspector. On his retirement from the QPS in 2000, he acknowledged that he had experienced the difficulties associated with the role that we have highlighted above, and indicated his view that the QPS still had much work to do to eliminate institutional racism (ABC 2000).

172 Administration of the CDEP scheme at Napranum and Injinoo had transferred to a private agency, and the resulting conversion of council jobs to fewer, full-time positions had forced councils to rationalise their services. Some councillors told us that they believed that providing policing services was the responsibility of the state government, not local government. They were also, however, very critical of the responsiveness of state policing services.

Since around 1996, the QPS has developed strategies to recruit, train and retain Indigenous people (see QPS 2002). For example, since 1997 the QPS has run a traineeship program (called the Justice Entry Program or JEP) that provides a bridging program to help Indigenous people to qualify as police recruits. The QPS also has an Indigenous Career Development Coordinator who travels to communities and provides information and advice for direct entry into the QPS. The aim of the QPS from 1996 has been to increase the number and proportion of Indigenous officers to a proportion about equal to the proportion of Indigenous Queenslanders (see QPS 2002, QPS 2005b).[173]

Attempts to recruit and retain more Indigenous police have had some success:

- Since 2003, 69 Indigenous people have completed the JEP and 51 of these have completed the further QPS training for recruits and gone on to be inducted into the Queensland Police Service (QPS 2008b; personal communication, QPS, 29 July 2009).
- As at July 2009, there were 196 sworn Indigenous police officers in Queensland (personal communication, QPS officer, 30 July 2009; see also submission of the QPS, p. 11).[174]

Notwithstanding this degree of success, Indigenous people account for less than 2 per cent of sworn police officers, despite accounting for over 3 per cent of Queensland's population (QPS 2008b), and they account for a far greater proportion of offenders against whom police take action (see Chapter 4 for details).

Recruiting Indigenous officers seems to have had little impact on policing in Queensland's Indigenous communities. At the time of our broad community consultations, there were very few Indigenous sworn police officers based in, or undertaking operational duties in, Queensland's Indigenous communities. The exception was at Thursday Island and Bamaga, where Indigenous officers we spoke to told us that they had been born and raised in the local or nearby Torres Strait Island communities. Indeed, it appears that very few Indigenous sworn officers have ever served in operational roles in Queensland's Indigenous communities.

Although not in operational roles, at the time of our broad consultations Indigenous sworn police at the rank of Sergeant were working in the role of Cross Cultural Liaison Officers (CCLOs) in the Far Northern Region and Mt Isa District. CCLOs are usually based at regional headquarters. The Torres Strait Islands, however, have had a locally based CCLO (an experienced Sergeant with a Torres Strait Island background). The CCLO role is to provide their regions with advice and support on Indigenous and other cross-cultural matters. They are to work closely with PLOs, developing and maintaining effective relations with Indigenous and multicultural communities and helping in local problem-solving or acting as troubleshooters after incidents.

Barriers to recruiting Indigenous officers have been identified in a number of previous reports. These barriers are potentially greater for recruits from Queensland's Indigenous communities than from elsewhere. They include educational and social disadvantage, failure to meet integrity requirements because of past criminal convictions, reluctance to leave the community to undertake training, and fear and perceptions of racism (see NSW Ombudsman 2005; Cunneen 2007b).

173 The QPS has also aimed to increase the level of other Indigenous staff members, including Police Liaison Officers, to around 4 per cent (QPS 2002, 2005b).

174 A further 125 Indigenous people at that time were other QPS staff members, including PLOs (personal communication, QPS officer, 29 July 2009; see also submission of the QPS, p. 11).

There is research suggesting also that it is simplistic to assume that Indigenous recruits will want to police in Indigenous communities, or that they can appropriately be deployed in any Indigenous community. Kamira (2001) observed that some Indigenous recruits felt marginalised if sent to work in an Indigenous community because first and foremost they were recruited as police. Kamira also states that there is a:

> … misguided belief that Indigenous people are one happy harmonious society. One police officer in Queensland was sent from the academy to a country town because he was Indigenous. The local community could not identify with him because they thought he was a Torres Strait Islander and the white community could not identify with him because he was black. The result was that he was so unhappy and lonely he resigned.

Finally, it cannot be assumed that the cultural identity of Indigenous police is the overriding factor shaping relations with the community. Researchers have suggested that other officer characteristics such as age, gender, educational background, religion and attitude are likely to play a role. The influence of police culture, too, may transcend that of cultural identity or any other aspect of the identity of individual officers (see Rowe 2004). For example, it has been argued that there is evidence to suggest that:

- in the United States, black police officers are as likely as their white colleagues to hold negative perceptions about those sections of the black community who receive most frequent police attention (Sherman 1983)
- the values and tactics of policing employed by black and Asian officers overseas are little different from those of whites (Holdaway 1996)
- simply recruiting Maori officers into the mainstream police service in New Zealand did not result in changes to policing methods (cited in QPS 2006b).

It may be that there is a 'critical mass' of a significant number of Indigenous officers of all ranks and roles that would make a difference, especially if they come to occupy relatively powerful positions.

What was our inquiry told about Indigenous sworn police?

A number of submissions suggested that the number and proportion of Indigenous sworn officers should be increased (submissions of Queensland Health, p. 2; Queensland Corrective Services, p. 2; Levitt Robinson Solicitors, p. 4; individual submission, Lafsky, p. 1; LAQ, p. 5; ATSILS (Qld Sth), p. 7). For example, one solicitor stated that the number should be increased

> to the point where there are 100% Indigenous Police forces, drawn from DOGIT and Torres Strait Island communities … while Black Police will be enforcing the laws of the broader community, it is expected that they will do so from a position of greater empathy and understanding … (Submission of Levitt Robinson Solicitors, p. 4)

During our consultations we were told that Indigenous police officers should be encouraged to work in Indigenous communities. We also heard enthusiasm for having Indigenous officers at senior levels, such as in OIC positions in the communities. In the Torres Strait Islands the desire to have local people as sworn police was particularly strong (see also Loban 2006).

However, we were also given information about practical difficulties associated with recruiting people from the communities to be trained as QPS officers to serve in their own communities. During our consultations, for example, the QATSIP at Badu explained that transitioning to sworn QPS officers would be difficult for them. They acknowledged the potential of the JEP initiative to aid the transition, but were concerned about the literary skills required for policing, noting that 'we [Torres Strait Islanders] are more practical [than academic] people'. Another concern was the inevitability of having to move away from their community should they become sworn police, as there is no police station at Badu or nearby islands. For example, even the temporary move to undertake training at the QPS Academy was a concern, because of the likelihood that some of them would lose their home to other family members moving in and laying claim to the residence.

One Indigenous officer serving in one of Queensland's regional centres told us that he had been approached on occasions to work in Queensland's Indigenous communities. He expressed some frustration at this, and explained that he did not want to work in the communities.

Community police

Since the late 1970s, many Indigenous communities in Queensland have relied to various degrees on the delivery of policing services supplemented by community police who are not employees of the QPS (see QPS 1994). Community police are employees of the local Indigenous council under legislation specific to the Indigenous communities. Generally they have been employed using council funds and Commonwealth funds through the Community Development Employment Project (CDEP) (that is, a 'work for the dole' scheme). They are employed primarily to 'maintain peace and public order' and were part of the Queensland Parliament's desire to promote self-management in the former reserve communities (QLA (Katter) 1984).[175]

Role

The community police enforce local council 'law and order' by-laws in their communities with powers conferred on them under by-laws.[176] Most, but not all, Indigenous communities have enacted by-laws. By-laws vary from community to community, but many have 'law and order' by-laws that mirror areas of the criminal law in dealing with property offences, offences against the person, public nuisance and good order offences. Some by-laws also deal with truancy, child neglect and alcohol offences. The extent to which by-laws are enforced and used instead of, or in addition to, mainstream criminal law varies across the communities and through time (see Chapter 17 for relevant data). In some communities, community police and QATSIP officers actively enforce the by-laws and these charges are often dealt with in the local JP Magistrates Courts. This system has provided a mechanism in some communities for offences of a relatively minor nature[177] to be dealt with by local people at the local level.

Community police may perform a variety of other roles in addition to enforcement of the by-laws, but this is highly variable across communities and through time. For example, the inquest into the death of a Hope Vale man in a community police van found that the community police in Hope Vale at the time[178] were performing the following roles:

- frontline crime prevention
- a first response in times of emergency
- intelligence gathering
- locating witnesses and suspects
- disseminating information about law enforcement and public safety matters
- developing cultural awareness in new sworn police officers and acting as sources of information on local sensitivities and relationships (Barnes 2005, pp. 13–14).

175 The relevant legislative provisions are now contained in the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

176 Community police can also be authorised by police to act in relation to certain offences under the *Liquor Act 1992*, such as possession of liquor in a restricted area, and can be authorised under the *Police Powers and Responsibilities Act 2000* to exercise powers in relation to noise complaints and relating to vehicles (including powers to stop, search, inspect and seize for the purpose of enforcing liquor offences).

177 Although by-law offences can accurately be described as relatively minor matters in comparison with serious criminal offences, it should not be assumed that they are trivial matters. Often the relatively minor and the more serious offences involve similar behaviours, and it is the outcomes that distinguish the more serious offences (see Chapters 4 and 17 for discussion of the nature of many 'law and order' by-law offences).

178 In contrast to the more recent situation, there was no permanent QPS presence in Hope Vale at this stage (see Barnes 2005).

Under the by-laws, community police have the power to arrest and can lawfully use reasonable force[179] in the performance of their functions, but they do not carry weapons (such as a firearm or capsicum spray).[180]

Although the community police are recruited and managed by local councils as council employees, the local QPS has responsibility for supervising them.[181] For some time the QPS has also provided training to community police, using its own existing resources and receiving some additional support to undertake this task (QPS 1994, p. 29; Barnes 2005; Cunneen, Collings & Ralph 2005). The QPS's own reports, however, describe the training provided as 'minimal' and 'sporadic' and have admitted that, because of the high turnover of community police, not all are trained (QPS 1994, 2006b).

The number of community police employed in Queensland's Indigenous communities has fluctuated from time to time and from place to place.[182] At the time of our broad community consultations (May–October 2007), there were about 25 community police working in Aboriginal communities and about 60 working in Torres Strait Island communities. As described above, at this time the Indigenous councils at Napranum, Injinoo, Doomadgee and Lockhart River[183] had recently terminated the employment of their community police after the Queensland Government's announcement that they were to be phased out.[184] Community police continued to operate at Cherbourg, Kowanyama, Pormpuraaw, Aurukun and Bamaga and in 13 of the Torres Strait Islands. Some councils employed several community police, others few. At the time of publication of our report we are aware that some councils, for example at Aurukun, have obtained funding from other sources to continue employing their community police.

We are not aware of any community police transitioning to sworn police since the announcement that community police are to be phased out, nor are we aware of any community police officers who have transitioned to become PLOs.

What's been said previously?

A large number of reports over a long period have been critical of the model of community police service delivery. The problem that is consistently identified is the capacity of local councils to manage this policing function. Related problems of inadequate resourcing, training and supervision have also plagued the community police scheme (Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999; Barnes 2005; Beacroft 1987; Cunneen, Collings & Ralph 2005; Fitzgerald 2001; HREOC 1997; Pearson 2007, p. 3; Powder & Law 1987; QPS 1994, 1998, 2006b; Johnston 1991, vol. 4, pp.156–9).[185] A number of reports have

179 See the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

180 The Police Commissioner may authorise community police to carry and use weapons, and they may be able to carry and use a baton or handcuffs with 'reasonable excuse' (s. 13 *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*. However, no such authorisation has been made in practice.

181 See s. 30(5) of the *Local Government (Aboriginal Lands) Act 1978* and s. 13(4) of the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

182 Indeed, it has previously been noted that it is difficult to accurately gauge how many community police are employed at any particular time in Queensland (QPS 2006b). In 2005, for example, all but four of the 35 Indigenous councils had arrangements in place for the employment of community police and in 1994 there were up to 120 community police employed (Barnes 2005; QPS 1994).

183 One community policeman, a man with about 15 years of service in the role, remained employed at Lockhart River.

184 Changes to CDEP funding arrangements also influenced this decision of these councils.

185 The State Coroner's report on the death of a Hope Vale man while being transported by community police to the Cooktown watch-house in 2005 provides a through documentation of much of this 'tortured' history of criticism of the model of community police service delivery and the recommendations for improvement (see Barnes 2005). We have not reproduced those details again here. The evaluation by Cunneen, Collings & Ralph (2005) of the Justice Agreement also reproduces this information.

also highlighted problems of the capacity or suitability of community police officers; for example, it has been said to be inappropriate that some community police have criminal records (see QPS 1994, 2006b).

The inadequate level of supervision, training and resources provided to community police has been directly implicated in relation to two deaths in custody in Queensland since the Royal Commission (see Barnes 2005; see also Cunneen 2001a, p. 220). The inquest findings of the State Coroner in relation to one of those deaths concluded that, despite the long history of problems being identified and solutions proposed, community police in Queensland 'continue to be used for the most difficult, dangerous, or unsavoury tasks without training, without resources, on the cheap as a pretend alternative to a genuine police service' (Barnes 2005, p. 21; see also Cunneen, Collings & Ralph 2005, p. 174; Johnston 1991, vol. 4, p. 159).

Despite the problems that have been consistently identified (including by QPS reports), it has also been acknowledged (including by members of the QPS) that the role played by community police has been 'essential', 'invaluable' and 'vital' across Far North Queensland, especially where there has been no permanent presence of sworn police (see Barnes 2005, pp. 13–14). A survey of QPS officers conducted at the time of the Royal Commission also revealed that 77 per cent of officers who had worked with community police felt they made their job easier (Johnston 1991, vol. 4, p. 152).

Because of the problems identified, it has frequently been suggested that the role of community police should be 'transferred' to the QPS in order to overcome the difficulties associated with adequately resourcing, training and supervising community police (QPS 1994, 1998; Barnes 2005; Cunneen, Collings & Ralph 2005; Fitzgerald 2001). The QPS has objected to such proposals on various grounds, including the additional costs said to be associated with such a strategy and the unsuitability of some community police as employees of the QPS because of their criminal histories (QPS 1994, 2006b).

What was our inquiry told about community police?

Several submissions suggested that community police should be wound up and that councils should not be in the business of having to provide policing services (submissions of Queensland Corrective Services, p. 2; Local Government, Planning, Sport and Recreation, p. 1; Torres Strait Islands community police, p. 2). Some submissions also noted the need for better resources, training, support and powers (submissions of a magistrate, p. 7; individual submission, name withheld, p. 5). One submission from the Cherbourg community noted that community police work hard, sometimes even around the clock (individual submission, name withheld, p. 1).

During consultations we heard that the community police continued to suffer from the frequently documented problems outlined above, but we also heard of a great deal of variability in how these problems affect community police. For example:

- At the time of our visits, community police in Cape York had not received any training from the QPS for over 18 months because of funding and staffing problems. The exception was in the Torres Strait Islands, where the locally based QPS Cultural Liaison Officer, an experienced Sergeant with a Torres Strait Island background, was able to continue and even expand the community police training, despite having no specific budget for that purpose or a travel budget to allow him to visit the island communities.[186]
- In some cases we saw that the QPS OICs would direct, supervise, roster and discipline community police, while in other communities it was clear that they had far less control and contact.
- Some community police were equipped with new vehicles and wore neat uniforms, but others appeared to be far less well supported.

186 The officer devised a 'cluster' approach to delivering training, bringing together community police from surrounding islands to one island in each island group. This allowed the training to continue on a regular basis.

- Some community police complained about poor pay and conditions, lack of job security, limited career prospects, the night hours worked, and other problems such as the lack of a mobile phone for contacting police or allowing community members to call them.
- In some communities, we were told that many people had little respect for the community police and some community police appeared stressed and anxious. One was almost in tears when he spoke to us about the tensions associated with the role. In other places the morale of community police appeared reasonably high.

Typically, community police appeared to be busy at their work; at Aurukun, for example, we saw them constantly meeting and speaking to people, moving around the town and speaking to the state police on radios. Likewise, at Lockhart River the one remaining officer, a local man with around 15 years experience in the role, appeared to be very active around the community.

When we spoke to local state police, community justice groups and the regional QPS Cultural Liaison Officers about the community police, we had an overall positive response. At Aurukun, the service provided by community police seemed to be particularly highly regarded and valued by the police, the council and others. However, many difficulties facing community police were acknowledged throughout our consultations — for example, the problems of low pay, poor employment conditions, limited training, high turnover, the serious criminal histories of some community police, the pressures of traditional obligations and the expectations of councillors, who are their employers.

Though all the usual difficulties noted above were certainly acknowledged in the Torres Strait Islands too, community police there were also said to have difficulty dealing with the serious criminal behaviour of Papuan visitors in some places. There was a widespread belief that some Papuans are involved in the smuggling of drugs and guns through the Torres Strait. At our meeting with the outer island community justice groups, concerns were expressed about the capacity of the community police to deal with these problems and about their safety. Outer island community justice group members said, for example, 'our brothers are at risk in that job'. As we have noted above, in the Torres Strait Islands there appeared to be particular pride in the long history of Islanders in policing roles — including as community police. For example, we were alerted to the fact that at Badu there had been two generations of the same family who had served as community police (and members of the current generation were serving as QATSIP). Other people made comments such as 'we've had a hundred years of policing our own'.

Members of community justice groups at Napranum and Doomadgee, where community policing had recently been terminated, expressed their fears of increased offending in the absence of community police. We were told by community justice groups and others that the community police carried out basic crime prevention activities, especially during the late evening and night hours when the state police were off duty. This work involves moving people on, taking children home if they are out late at night, calming people in confrontations, contacting police if violence occurs and recording their observations for later reporting to police. We were told by Elders that the community police also 'just watched over us' to make sure they were safe.

The mayor, deputy mayor and CEO at Injinoo advised us that, immediately after the council terminated the employment of community police, Injinoo experienced an upsurge in offending and antisocial behaviour, mostly by children. This continued for a period of three months before the council decided to allocate scarce funds to re-employ the former community police as security officers. At our meeting with the council, a non-Indigenous staff member said: 'We didn't really know what the community police did until we went without them, then we found out.' He went on to describe the importance of the efforts of community police in early intervention or, as he put it, 'nipping things in the bud' before criminal behaviour occurred or worsened.

Local police told us that community police are 'very valuable', 'essential', with one OIC stating that 'we couldn't do it without them'. Officers said that community police play a key role as advisers, cultural guides and interpreters, and their local knowledge is considered by officers in some communities to be vital to successful policing in those locations, including the ability to locate people such as Elders, traditional owners, witnesses and suspects, and the provision of information in a wide range of contexts. Some police also had community police assist with the supervision of prisoners in the watch-house — for example, to act as a witness when police were dealing with an aggressive prisoner, or to watch over a prisoner when officers had to attend an incident in the community (see Part 3, 'Detention in police custody').

Some police officers emphasised the importance of working closely with community police, saying:

- 'you get back what you put in'
- 'just having a community police officer in the car with you gains respect for both police and community police'
- 'their efforts at local problem-solving should be encouraged'
- 'you must be flexible, recognising and making reasonable allowances when traditional obligations, for example, may impinge on the ability of a community police officer to carry out a task'.

One OIC, who was clearly dedicated to and skilled at developing good relations with his community, noted that he sometimes actively encouraged the council to appoint as community police particular individuals with serious criminal records. He saw this as an opportunity both to keep close tabs on that person and to provide rehabilitation by developing skills and giving them meaningful employment.

In contrast to local police and others on the ground in the communities, some senior police and others in key roles in the Queensland Government suggested that community police primarily do liaison and are little different from PLOs. For example, one QPS staff member asserted that '99 per cent of what the community police do is liaison'.

In sum

Community police in the past have often filled, and in many communities continue to fill, a gap and to provide policing services that improve community safety and perceptions of safety. There is no doubt that there have been some good community police. If their work is well integrated with the work of the local state police, and the right people are in the roles, the community police can, and have, provided an important service to the QPS and to the community. We saw that this was happening at Aurukun and other locations on some of our visits there.

However, the scheme is fundamentally weak in that community police are a service provided by councils rather than by the QPS; the community police rely heavily on the QPS for adequate training, supervision and integration with state policing services. For too long community police have been used as a cheap supplement to other policing services in Queensland's Indigenous communities. The fundamental weaknesses of the scheme have contributed to its lack of credibility with and respect from police and the community.

Queensland Aboriginal and Torres Strait Islander Police (QATSIP)

In response to the criticisms of the community police model and recommendations that this policing function of local councils should be transferred to the QPS (see QPS 1994), the QPS commenced the QATSIP trial in 1999 (QPS 2001). In contrast to the situation with community police, a great deal of effort has been devoted to the conception and development of the QATSIP scheme.

Role

Like the role of community police, the QATSIP role is focused on the enforcement of local council by-laws. QATSIP officers may also undertake some additional policing functions[187] and can exercise specific police powers delegated by an accompanying officer or OIC, but this does not extend to arrest powers, for example. QATSIP officers have status within the QPS as 'special constables'.[188] In the trial communities, QATSIP officers were granted powers under by-laws to arrest offenders for by-law breaches and, as with community police, QATSIP officers had the power to use reasonable force in exercising these powers.[189] They have generally carried no accoutrements but the need for providing accoutrements to QATSIP has been debated, with some arguing strongly that they should be provided (see QPS 2003a, pp. 11–12). In 2003, QATSIP officers were trained in the use of handcuffs and batons, but this is said to have been for information only and they were not issued with these accoutrements (QPS 2003b; personal communication, QPS officer, September 2009). The QPS is responsible for the recruitment, initial and ongoing training and supervision of QATSIP (submission of QPS, p. 3).

The QATSIP role was developed to include a specific focus on proactive policing activities, including regular patrolling, and a focus on helping young people to stay out of the criminal justice system (QPS 2003a). The QATSIP scheme was also developed from the outset to be integrated with broader initiatives to strengthen local community justice mechanisms. For example, the scheme was developed to be heavily interdependent with the Indigenous JP program and the establishment of local JP Magistrates Courts to hear the by-law charges enforced by QATSIP (QPS 2003a) (see Chapter 17 for further discussion).

QATSIP were located at Woorabinda (initially 4 officers, later 5), Yarrabah (7 officers) and Badu Island (initially 4 officers, later 5) and replaced community police in these locations. As we described above, subsequent to the government's announcement of the move to a standard model for service delivery and the phasing out of QATSIP, the QATSIP at Woorabinda immediately resigned and the QATSIP at Yarrabah lost their jobs in mid-2008.

We are aware that a small number of QATSIP transitioned to positions in the QPS. One QATSIP officer from Yarrabah and 2 Badu QATSIP undertook the Justice Entry Program.

What's been said previously?

The QATSIP model has received a great deal more support than that of community police. For example, while noting some problems, both the Cape York Justice Study (Fitzgerald 2001) and the evaluation of Queensland's Aboriginal and Torres Strait Islander Justice Agreement (Cunneen, Collings & Ralph 2005) recommended that the QATSIP program be expanded to replace community police in all Queensland's Indigenous communities. Cunneen, Collings and Ralph stated that the QATSIP model was successful and was supported by stakeholders (pp. 185–7).[190] They noted that the cost of the scheme was about $1 million (p. 185).

A QPS evaluation of the QATSIP scheme similarly concluded that it was successful and generally enjoyed high levels of support (QPS 2001, 2003a). The QPS evaluation recommended that the scheme should be made permanent and that there was potential for it to be extended to other communities. The Badu Island QATSIP model, where there is no permanent police presence, was said to be successful and to have significantly benefited the

187 As conferred by the Commissioner's Instrument of Appointment pursuant to s. 5.16(1) of the *Police Service Administration Act 1990*.

188 Pursuant to s. 5.16 of the *Police Service Administration Act 1990*.

189 See the *Community Services (Aborigines) Act 1984* and the *Community Services (Torres Strait) Act 1984* (now repealed) In addition, QATSIP had certain powers of investigation under the *Indigenous Communities Liquor Licensees Act 2002* regarding enforcement of the *Liquor Act 1992*.

190 As stated above, it was in response to the recommendation that the QATSIP scheme should replace community police made in the evaluation of the Justice Agreement by Cunneen, Collings and Ralph (2005) that the Queensland Government announced its decision to phase out QATSIP and move to a model of sworn police and PLOs.

community. However, the evaluation stated that implementation in other communities without co-located police would be 'highly problematic, primarily due to the difficulties of remote supervision and mentoring' (QPS 2003a, p. 2). Although the evaluation found that the number of by-law charges laid by QATSIP officers was not necessarily high, the report suggests that QATSIP officers had more respect and credibility than community police, in part because they had the 'backing of the QPS' (QPS 2003a, pp. 12 & 23). QATSIP officers were seen as more professional and reliable, and better trained and supervised. A number of former community police officers who were now QATSIP officers agreed that they were more effective in their new roles (QPS 2003a).

Issues identified in the various reports include:

- difficulties associated with the perceived uncertain future of the scheme in the eyes of the Queensland Government, including in relation to recruitment and morale of QATSIP officers
- tensions about whether QATSIP officers needed greater powers in order to deal with problems such as family violence
- concerns about the safety of QATSIP officers in communities where violent incidents are common
- difficulties in dealing with family and kinship relationships (Fitzgerald 2001; Cunneen, Collings & Ralph 2005; QPS 2003a).

The QPS evaluation identified a range of 'success factors' needed for the QATSIP scheme to be expanded into other communities, including:

- infrastructure such as office space and equipment
- an operational community justice system, including functional by-laws and local courts to hear the charges
- commitment from the top down (that is, support from the highest levels of the QPS and other stakeholders, such as the local council)
- a high level of community involvement
- integration of the QATSIP officers into the local police team (through partnerships, mutual support and close supervision)
- commitment of sufficient resources to support success (that is, structured training and appropriate equipment); the expansion of the scheme, it was said, would involve 'considerable expense' (QPS 2003a).

Despite the QPS evaluation suggesting that the trial project had been a success and should be expanded, the QPS concluded that no Indigenous community had the 'success factors' identified as necessary precursors for expansion (QPS 2003a). A QPS report to the Law and Justice CEO Committee (2006b) also provided a negative assessment of the scope for the expansion of QATSIP. It stated that there was a need for substantial legislative change to support the program and to address 'anomalies surrounding QATSIP roles, responsibilities, and law enforcement powers' (pp. 3 & 27). It also reiterated the findings of the earlier QPS report (2003a), which concluded that none of Queensland's Indigenous communities had the necessary 'success factors'.

What was our inquiry told about QATSIP?

Several submissions expressed support for the QATSIP program or suggested that it should be extended (submissions of Queensland Health, p. 2; a magistrate, p. 2; Torres Strait Regional Authority (TSRA), p. 1; a number of individuals who were QATSIP officers, p. 1; Torres Strait

Islands community police, p. 2). Some submissions also noted issues in relation to training and resourcing,[191] and the need for better transitioning to sworn police (a number of individuals who were QATSIP officers, pp. 2 & 5; TSRA, p. 1; Torres Strait Islands community police, p. 2).

During consultations we heard a great deal of positive comment about QATSIP officers, although it was also noted that there were areas that could be improved.

QATSIP officers were positive about their role. They believed that they worked well with police, advising us that they 'felt appreciated'. The QATSIP at Badu Island explained to us how they worked:

- They emphasised their ability to take a 'cultural approach' to incidents or problems — for example, they focus on de-escalating violent behaviour by using a combination of respect and authority as appropriate: 'We might talk as an uncle to a young man, but talk as a nephew to a senior man.' The QATSIP agreed that crime levels on Badu are relatively low, but believed that their efforts have contributed substantially. They claimed that 'Badu was a wild place' before the QATSIP scheme began and that there is potential for more trouble than that which occurs.[192]
- They said that 'people won't step over the line with us' because they respect the authority of the QATSIP officers. It emerged from their further explanations that the authority derives from their status as QPS officers with powers and their performance in the role. They said: 'What we tell the offender is going to happen, is going to happen.' (They also acknowledged, however, that there are times when they need to call police at Horn Island or Thursday Island to seek advice.)
- They said that having powers is very important, even if they seldom use them. For example, the QATSIP told us that, on some occasions when they had confronted an uncooperative person, they had 'bluffed' their way through the incident, relying on the ignorance of the person about the limits of QATSIP powers. They said that without powers 'it puts you in a very hard spot' because people would know that they are without any authority.

The Badu QATSIP admitted that the constraints on them arising from their limited training and powers could be a problem in some situations. They believe that they are capable of having increased powers, including the power of arrest, and access to the associated police accoutrements such as handcuffs. They stressed that their training would first need to be improved and expanded. The QATSIP explained that there could be difficulties for them in situations where they were faced with an uncontrollable offender, particularly as they had no defensive weapons. One such offender, who was armed with a harpoon, had threatened and harassed one of the QATSIP over several days and the QATSIP had been unable to resolve the situation.

Although the QATSIP on Badu mentioned individual officers they felt had supported them and who 'spoke up for us', QATSIP officers in general were less positive about the level of support received from the QPS. They commented that:

- The QATSIP Development Officer, who is responsible for their training and development, is based in Cairns and rarely visited the communities.[193]
- One QATSIP officer had been in the role for two years but was yet to be officially made a Special Constable.

191 For example, the submission of QATSIP officers on Badu suggested that they needed a secure place to detain offenders and a permanent police presence on Badu to provide support (QATSIP officers, Badu Island, p. 2).

192 We tried to obtain recorded offence levels at Badu before 2000, but the QPS advised that offence data over the longer term for locations within the Thursday Island police division were not reliable (pers. comm., QPS Statistical Services, December 2007).

193 The QATSIP Development Officer advised that he had a very limited travel budget and had rarely been able to go to the Torres Strait since the scheme began.

- Aspects of their employment conditions, such as their eligibility for locality allowance, needed improvement. They stated that their efforts to have such issues addressed through approaches to the QPS and the police union had not been successful.
- The QATSIP vehicle was in a dilapidated state and we were told it was two years overdue for replacement.[194] The QATSIP also had no boat, which is essential equipment in the Torres Strait to allow officers to police local water traffic, travel to adjoining island communities or help with searches. The QATSIP said: 'Appearances are very important in the Torres Strait. If it looks like your agency really supports you, you get more respect.'

Although the overall impression was one of pride in the success of QATSIP at Badu, some councillors and community members there had concerns about QATSIP: their lack of powers, the perceived poor support by the QPS, the need for better training, and the hours of duty (the QATSIP work according to rosters determined by the Horn Island police, so they normally do day shifts and only some evenings, and as a result do not deal with incidents occurring in the evenings, such as noisy parties).

Sworn officer colleagues working with QATSIP officers were also generally positive about the advantages of working with them and supported the model. They cited benefits such as the assistance provided to police, particularly in executing warrants and finding people, as well their efforts in defusing incidents and improving community safety. Some also mentioned the advantages of QATSIP being employed by the QPS, such as independence from the local council, better training and resources than the community police, and higher integrity and discipline standards.

Senior police we spoke with are wary of the risks associated with expanding the powers of QATSIP to include, for example, the authority to use force and arrest and detain people, especially where the QATSIP are not directly supervised and have no suitable detention facility. One senior officer, while supporting the QATSIP concept, noted that QATSIP are less willing to assist police in some matters — for example, when they have family members involved and in relation to crimes of a sexual nature. When we queried the QATSIP about the family obligations aspect, the QATSIP denied it is a problem and stated that 'we treat everyone the same'.[195]

One officer whose role was associated with the scheme was notable in that he expressed little support for the QATSIP model and suggested it was not a success. He stated that 'QATSIP officers don't really do police work'. He also stated that QATSIP are expected to perform the role of sworn police without adequate training, and that the expense involved in properly training QATSIP would outweigh any benefit. He stated that the QPS should be focused on delivering policing services 'equitably' rather than 'trying to accommodate particular communities or interest groups'.

It was also suggested to us by a senior government official that the QATSIP scheme does not provide value for money — for example, that the Badu QATSIP cost $350 000 per annum but 'they make no arrests' and 'there is no crime reported'.

At the time of our consultation visits to locations without QATSIP, we found that councillors, community justice group members and others were aware of the QATSIP program, particularly in communities in northern Cape York. A positive view of the QATSIP appeared to have been passed on by word of mouth, with people at several of our meetings declaring that they would like QATSIP in their communities. Particular mention was made of the influence of the Badu

194 The condition of the QATSIP vehicle at Badu was in stark contrast to the vehicles used by the Aboriginal Community Police Officers (ACPOs) in the NT. In the two NT Aboriginal communities we visited, each of the two ACPOs had his own fully equipped and well-maintained 4WD vehicle, and their supervising officer also had a vehicle. As part of the ACPO scheme, local communities supply the ACPO vehicles.

195 There were, however, sufficient numbers of QATSIP officers to overcome the problem of family obligations.

QATSIP on local children and on promoting high standards of behaviour. Those who knew that the government had decided to terminate the QATSIP program typically expressed disappointment and even bitterness at the decision, stating 'when we get something for our people that works, it gets taken away'.

We heard from some police and community members that after the QATSIP at Woorabinda resigned there was an outbreak of crime in the community, with juveniles involved in property crime and disorderly behaviour and adults in grog running (this was similar to the situation described at Injinoo after the termination of community policing there, as outlined above). The situation became critical and was reported in the national media at the time (see ABC news 2006b, 2006c, 2007d).[196]

In sum

A great deal of effort has gone into the carefully conceived QATSIP scheme, and it has been the subject of a sound evaluation conducted by the QPS (see QPS 2001, 2003a). There is far stronger stakeholder support for the QATSIP scheme than for community police. Generally, QATSIP officers have achieved a commendable degree of credibility with communities and police; in large part this appears to be due to the fact that they have the 'backing of the QPS' and have some powers to act. The government and the QPS appear to have been reluctant to transfer the community police into the QATSIP scheme more broadly, largely because of the cost.

Police Liaison Officers (PLOs)

The PLO scheme began operating in Queensland in 1992 in response to the recommendations of the Royal Commission into Aboriginal Deaths in Custody (see, for example, recommendation 229, Johnston 1991, vol. 4, p. 152).

Role

PLOs are civilian personnel employed by the QPS to act as a bridge between local police and the community. The role of PLOs is one of community engagement and liaison, to establish and maintain positive rapport between the community and the QPS (submission of the QPS, p. 3). Their role also includes crime prevention, linking people to support services and involvement in programs. It does not include any role in law enforcement, arrest or acting as first response to an incident.

PLOs do not carry accoutrements or have 'use of force' powers beyond that of an ordinary citizen. On occasion they may be required to help police with additional tasks (submission of the QPS, p. 3). For example, they may be used to locate and help police identify people in the community.

Despite their lack of powers, PLOs wear the same uniform as sworn police. However, this is somewhat contradictory to the specification in the QPS description of the role and functions of a PLO that PLOs are not to be deployed in performing duties 'that could lead to an expectation or perception they are a police officer' (see Cunneen, Collings & Ralph 2005, p. 176).

As the 'standard' model of sworn police working with PLOs has existed in only a few Indigenous communities until recently, evidence that it is effective in such places is currently limited. PLOs are now employed by the QPS in Yarrabah, Woorabinda, Palm Island, Horn Island and Thursday Island. There are also two PLOs in Cooktown who provide services to Wujal Wujal and Hope Vale, and two in Murgon to provide services to Cherbourg. The PCYC program in Mornington Island, Yarrabah and Palm Island also each employ two PLOs in a PCYC role only.

196 Senior police in the region told us that they did not believe that the situation arose directly from the loss of the QATSIP, but that the reduction of QPS staff from ten officers (including the five QATSIP) to five sworn officers had made a difference.

What's been said previously?

The evaluation by Cunneen, Collings and Ralph (2005) of the Justice Agreement appeared positive, stating that there had been an improvement in the training and professionalism of PLOs. It also noted that the improvement in training has been of assistance in transitioning some PLOs to sworn officers. Cunneen (2007b) more recently described Police Liaison Officers as the 'least promising' of models to increase Indigenous involvement in policing, primarily because of problems of perceived legitimacy.

The QPS, however, views the PLO scheme rather uncritically. For example, QPS reports tend to overlook possible challenges faced by the scheme. The QPS submission (p. 4) makes no reference to any challenges facing the scheme in these communities but states that 'PLOs have contributed substantially to positive relationships between the QPS and communities'. Another QPS report (2006b, p. 15) makes little reference to any of the challenges confronting the scheme, but simply states:

> the PLO scheme has been running successfully for over 10 years and continues to receive favourable comment from a number of forums concerning the program's contribution to enhancing relationships between the QPS and communities.

The NSW Ombudsman's (2005) audit of the implementation of the NSW Police Aboriginal Strategic Direction 2003–2006 provides some independent consideration of the scheme as it operates in that state. It found that a police liaison officer doing their job with the support of colleagues and the community 'is an invaluable resource'. But it also acknowledges that the role is a difficult one and states that 'too often their police colleagues and their own community treat them as if they are working solely in the interests of the other side in the police–community divide'. The audit reveals that the community, for example, often saw the liaison officers' role as one of 'police informant' or 'taxi service'. It also identifies the following challenges in relation to the PLO scheme:

- difficulty in recruiting and retaining suitable candidates because of inadequate education and disadvantage, and because of the inherent difficulties of the position
- lack of adequate support and training
- lack of integration of the role with the work of other police
- a large degree of inconsistency in how liaison officers are used by police and a lack of understanding of some police as to how PLOs can be used to assist operational policing
- lack of development opportunities for PLOs (NSW Ombudsman 2005, pp. 13–16).

In Queensland, similar problems can also be identified. For example, the Aboriginal and Torres Strait Islander Women's Task Force on Violence noted in its report that PLOs lack suitable career development opportunities (1999, p. 263).

The death of Mulrunji in the Palm Island watch-house provides powerful evidence of the problems facing PLOs in Queensland. The policing model in operation at the time on Palm Island was that of sworn police working with PLOs (which is now the government's 'standard model' for the delivery of policing services across Queensland, including the Indigenous communities). It was comments made by Mulrunji to a PLO, challenging why he would assist police against his own people, that led to Senior Sergeant Hurley arresting Mulrunji and that ultimately resulted in his death in the watch-house (Clements 2006). The Acting State Coroner's findings in the Mulrunji inquest say that, in relation to the PLO involved in the incident, his:

> role was menial and without authority or apparent respect from either his own community or the Senior Officer in Charge on the island … The reality was that Police Liaison Officer Bengaroo was isolated from the police service and his own community both of whom, I have no doubt, he was trying to serve. However, torn between the two in an impossible role, he was emasculated and powerless to exert influence on the unfolding tragedy. (Clements 2006, p. 5)

McDougall (2006, p. 40), in his report commissioned by the state government in the aftermath of the Palm Island incident, refers to the QPS policy of employing liaison officers (PLOs) as a failure. Weber (2007) also considers the PLO scheme in the light of events on Palm Island. She notes that:

- PLOs are 'subordinate' to sworn police and have little capacity to influence decisions by sworn officers
- the result is 'an unenviable combination of responsibility (or culpability) in the absence of effective power'
- by virtue of wearing a police uniform alone, PLOs 'will always be suspect wherever police are believed to act against community interest'
- appointing more PLOs without other measures to improve relations is likely to lead to them becoming potential flashpoints for tensions, rather than mediators (p. 239).

What was our inquiry told about PLOs?

A large number of submissions to our inquiry suggested that the role of PLOs should be enhanced (Department of Child Safety, p. 2; Department of Communities, p. 20; Queensland Health, p. 2; individual submission, Villaflor, p. 6; individual submission, name withheld, p. 1; Levitt Robinson Solicitors, p. 4; ATSILS (Qld Sth), p. 7; JCU Law School, pp. 15 & 19–20). Suggestions for improvement included:

- that PLOs should be given sufficient powers to actually police (submissions of Department of Communities, p. 20; Queensland Health, p. 2; a magistrate, p. 2; JCU Law School, pp. 15 & 20); ATSILS said that, as things are, the standing of PLOs is effectively reduced to 'that of a powerless spectator' (p. 7)
- that steps need to be taken to reduce the stigma attaching to PLOs and increase their respect by police and communities; submissions noted that sometimes PLOs are treated with 'disdain' (ATSILS (Qld Sth), p. 7), or as 'Jacky-Jackys' and the 'meat in the sandwich' (JCU Law School, pp. 15 & 20)
- that their training and remuneration should be improved (submission of a magistrate pp. 1–2) and that there be better transitioning to sworn officers (individual submission, Lucienne, p. 1).

During our consultations with the Indigenous communities and the regional centres, we found that there was limited support for implementing the PLO scheme in the communities, particularly as a replacement for community police or QATSIP officers. The majority view in our meetings with community members was that PLOs would not be effective in their community. People commented that PLOs 'won't work here'. Comments about PLOs included:

- 'they're gammon police'
- 'we can see him in Cairns, he is only a uniform'
- a PLO is 'just an actor in a blue shirt', 'a Jacky Jacky' or 'tittle tattle'.

An experienced former PLO further articulated the concerns raised by community members. He told us that 'there is a stigma attached to being a PLO'. PLOs 'get stressed' by Indigenous people 'abusing and sledging' them. He said 'this is the biggest thing, the verbal abuse'; it is 'like a stake in your heart' as PLOs cannot respond to the abuse. Another problem he described was: 'PLOs tell people something, but often the sworn police officers come along and something else happens'; this leads people to think 'why talk to a PLO when I can talk to a police officer?'.

The former PLO also stated that as part of their role PLOs are required to, in effect, be a 'first response' at incidents as they are sent in by sworn police to locate and identify people or to try to de-escalate the situation. He commented that this 'doesn't work out' as PLOs are seen as 'tittle-tats'.

The former PLO went on to say that 'Police Headquarters think PLOs have a useful role', but his view was that many operational-level police officers 'think that PLOs are useless'. He said that PLOs were often told by police officers that 'you do nothing', so PLOs 'cop it from both sides' — community members and police.

The comments of PLOs currently working in Indigenous communities tended to align with those of the former PLO. One said that many police officers 'ignored' PLOs, and that PLOs 'did not feel welcome' in the QPS. He said that police 'don't really trust PLOs'. Another PLO told us that he believed the community does not respect PLOs, but he also noted that the community had not respected the community police either.

On the other hand, people at a small number of Cape York communities saw benefits in local police working with PLOs, to improve communication and understanding. The PLOs at Torres Strait Island locations were more positive about their role than those elsewhere, and they seemed to generally feel accepted by police. However, community members in these locations raised a concern that PLOs are routinely sent into dangerous situations by police, which puts them at risk of harm.

The views of police on the suitability of the PLO role to the Indigenous communities were mixed. Some police in the communities expressed doubts about their value or that local people would accept PLOs, but others supported the employment of PLOs in Indigenous communities. At one station we were told 'we don't need PLOs here, they just get a hard time'. A senior officer stated: 'PLOs are great in schools and following up matters with families, but when they go to homes with alcohol and violence problems they are embarrassed as they have no powers and people know it.'

Police officers recognised possible difficulties in recruiting suitable applicants, such as a probable lack of willing applicants, and the small number of community members without criminal records. PLO obligations to family members within the community ('we'd need more than one') and the wearing of QPS uniforms by PLOs were also raised as problems by police.

Police confirmed that PLOs may, in effect, be placed in a 'first response' situation to make an assessment and try to calm things down before police approach people, because sometimes the presence of police inflames tensions. Indeed, some police appear to assess a PLO's worth by their perceived willingness to 'watch our backs' and help police in conflict situations. For example, one police officer stated that the local PLO 'is good, he's not afraid, he'll back us up'.

Aurukun councillors seemed to assume that, if PLOs were recruited to work in that community, they would come from outside Aurukun, given the problem of traditional obligations. This was a concern to them because, as one councillor put it, 'we wouldn't know that fellow', which acknowledged not only unfamiliarity but also lack of belonging, local knowledge and fluency in local languages.

The Badu QATSIP, two of whom were previously PLOs, believed that the QATSIP role is a 'better stepping stone to becoming a sworn police officer' than the PLO role. They explained that 'QATSIP is a model where you are actually doing the policing job, as opposed to not doing it in a PLO role'. The Badu QATSIP said that the QATSIP at Woorabinda had resigned because they did not want to become PLOs.[197] At Yarrabah the QATSIP thought that going back to PLOs was a backward step, as it was removing their authority.

197 One of the former Woorabinda QATSIP confirmed this, but also advised that the QATSIP had resigned immediately to pursue alternative employment opportunities.

What are other jurisdictions doing?

In contrast to what has been suggested elsewhere (see, for example, QPS 2006b, p. 24), we found strong levels of commitment in the police services in both South Australia and the Northern Territory to continuing to support their long-running special models for involving Indigenous people in policing roles.[198]

In both the NT and SA schemes, the Indigenous officers are police constables who undertake law enforcement and crime prevention duties as well as liaison between non-Aboriginal police and Aboriginal people. Under both schemes, the Indigenous officers work alongside sworn officers in urban areas and in remote communities. In those remote locations without sworn police, the Indigenous officers are the only permanent police presence.

In contrast to the situation in Queensland, Aboriginal Community Police Officers (ACPOs) in the NT receive a formal qualification and are full members of the NT Police and the police union. South Australian Community Constables have a special sworn status.

Although ACPOs in the NT are full members of the NT Police and are employed and trained by the police service, the community also makes a contribution by providing an office, housing and a vehicle. This is an important feature of the scheme as this partnership helps ensure community commitment and ownership.

In the NT, training for ACPOs is tailored to suit Indigenous learning styles. For example, there is an emphasis on learning through doing and on practical instruction rather than 'book learning'. (However, it should be noted that an eligibility requirement for ACPO applicants relates to written English skills.)

In both the NT and SA, Indigenous people in these roles have been given powers to police state and territory laws, and the schemes therefore do not revolve around enforcement of by-laws. They commence initially with limited powers but can qualify over time for increased powers and responsibilities. SA Community Constables working alongside sworn police have powers and carry the same accoutrements.

The NT Police Service has recently implemented a program to train and develop ACPOs to become fully qualified sworn police.[199] For example, it has instituted block intakes of ACPOs to help them to transition to sworn officer status. The effort being put into transitioning ACPOs in the NT to sworn officers does not mean, however, that the ACPO scheme is being wound back; to maintain ACPO numbers in the communities, the NT Police Service is actively 'backfilling' the ACPO positions vacated by officers moving to sworn status.

Although not the case in SA, in the NT prior criminal convictions of applicants for ACPO positions, as well as any other information concerning an applicant's integrity, are assessed on a case-by-case basis, according to established guidelines, in order to determine an applicant's suitability for the position.

The SA Community Constable scheme in the remote Aboriginal communities presents a number of challenges that need ongoing management by South Australia Police (SAPol), such as managing the conflicts of interest arising in policing a small community that includes relatives. Senior SAPol officers advised us that SAPol is finding it difficult to retain Community Constables over the long term in remote locations and to recruit suitable replacement officers,

198 In Western Australia, however, the police service has decided to terminate the Aboriginal liaison officer and Aboriginal community police schemes. We were advised that the position of the WA Police is that 'all WA police are competent to police anywhere in the State'. It should be noted, however, that WA is investing substantial amounts of money in 'multi-function justice centres' in remote communities in response to the recommendations of the Gordon Inquiry about violence and child abuse in Aboriginal communities (Gordon, Hallahan & Henry 2002; Government of Western Australia 2002).

199 It was explained to us that part of the reason for these efforts is the commitment of all NT Government agencies to meet equal employment opportunity targets (28% of the population of the NT is Indigenous).

given the small populations and unique characteristics of those communities.[200] SAPol has run television advertising in the past to encourage recruitment of Community Constables. We were advised that SAPol is also introducing part-time female liaison officers in remote communities, not as a replacement for Community Constables, but as part of a family violence program.

Both the SA and the NT schemes predated the QPS's QATSIP trial by many years. These schemes continue to provide valuable lessons for the QPS, including that there are Indigenous people, even in remote Indigenous communities, with the capacity to successfully exercise police powers and carry accoutrements. The foundations for the long-term sustainability, and the high degree of commitment within the police services and the communities, enjoyed by these schemes in their respective jurisdictions appear to derive from:

- the requirement for a tangible commitment to be made by the communities themselves
- involvement of Elders and community members in the selection process
- the significant commitment made by the police services to the training and development of these Indigenous police, including the integration of Aboriginal learning styles into the training through a great deal of on-the-job training and reinforcement by supervisors
- adequate resourcing, ongoing specialised support, ongoing trouble-shooting and a willingness to overcome difficulties
- recognition and respect for Indigenous knowledge and skills.

Other forms of 'policing'

As in other jurisdictions, the Queensland Government appears in recent years to be increasingly inclined to provide support to community or night patrols performed by local people (see Queensland Government 2008f).[201] Employing local people to provide security services has also been increasingly relied on in some communities to maintain law and order. These trends may have been reinforced by the government's decision to move to the standard policing service delivery model in Queensland, comprising sworn police and PLOs. For example, during our consultation visits the community justice groups at Napranum and Doomadgee lamented the termination of community police by the local councils and:[202]

- had funded a private Indigenous-owned security firm at Napranum[203]
- had obtained government funding for a night patrol at Doomadgee.[204]

Community or night patrols

Community patrols, also known as night patrols, are foot and vehicle patrols conducted by Indigenous community members, typically independent of the police. The patrols focus on improving community safety and intervening in situations where Indigenous people are 'at risk' of becoming involved with police and the criminal justice system.

200 Similar problems have been noted more formally by SAPol in the past. For example, a submission to the Coroner in the inquest into the death of Kunmanara Thompson indicated that SAPol tended to have 'great difficulty' in recruiting Community Constables to certain areas because of the difficulty of the job and the perceived unattractiveness of such a career (Bristow 2004, cited in the *Anangu Lands Paper Tracker* 2008). The submission also noted the difficulties associated with the small pool from which SAPol is able to draw Community Constables, particularly as many people nominated for the position by the communities have criminal histories and are therefore unacceptable (Bristow 2004, cited in the *Anangu Lands Paper Tracker* 2008).

201 This may follow the trend at the federal level.

202 The community justice group at Lockhart River had yet to hear that the then vacant community police positions would not be filled and that the council proposed to terminate the employment of the remaining community police officer.

203 The security service operating at Napranum had provided accredited training to several local people and was conducting security patrols at night in and around the community, until the community justice group could no longer afford the service.

204 At the time of our visit to Doomadgee, the night patrol was yet to commence operation.

They often deal with problems of community disorder, domestic violence, alcohol, drugs and young people (Blagg 2008; Blagg & Valuri 2003, 2004). In addition to intervening and mediating in relation to such matters, members of these patrols may be involved in connecting people with services, providing safe transportation and advising the courts on sentences (Blagg & Valuri 2003, p. 8).

Such patrols carry out a form of community-based policing. They operate without police powers to stop, question and arrest people, and instead operate on a consensus and mediation model. Blagg and Valuri (2003, p. 59) claim that 'patrollers are not police and research shows most do not want policing powers'. Their powers are the same as those of any other citizen and the emphasis is on 'negotiation and working from a position of moral authority rather than imposing formal powers' (Blagg & Valuri 2003, p. 12). They operate with cultural authority and knowledge from being in direct relationships with those they are dealing with (although, as with the other Indigenous policing roles described above, this strength can also cause difficulties in communities where strong factions and families exist).

Community patrols have been most strongly associated with Northern Territory communities and patrollers are often women. Some patrols use professional youth workers, some include Elders, others have Elders to consult, some are primarily run by women patrollers, some are run by volunteers, while others have had all paid workers (Blagg & Valuri 2003, 2004).

Blagg and Valuri (2003) have provided the key analysis of community patrols in Australia. They state that, despite there being some long-running community patrol schemes, there is a lack of rigorous evaluation of their effectiveness in Australia. They noted, however, that client feedback and anecdotal evidence tend to show that such patrols are positively regarded (p. 13).[205] [206] Blagg and Valuri conclude that patrols provide an 'invaluable service' to the communities they serve (p. 61). Blagg (2008) suggests they have the potential to decrease the number of people detained, improve relations with the police, and boost the sense of security and public confidence.

Problems

Ryan (2001, cited in Blagg & Valuri 2003, p. 16) has highlighted that 'A cycle of failure with Aboriginal community night patrols is extremely common.' Community patrols face a range of problems:

- The level of resources provided is a key factor. Often community patrols have difficulty obtaining adequate and consistent resources and funding to appropriately train, pay and support workers. This has been identified as a problem in Queensland in the past (Blagg & Valuri 2003, pp. 38 & 47; see also Blagg 2008, p. 123).
- There may be lack of recognition and acceptance by police and government of the need for local authority to underpin the work of local patrols, they may be susceptible to too much government interference and control, and they may face conflicting expectations from government and community about the role and purpose of patrols (Blagg & Valuri 2003, p. 33).
- Experience shows that, without a clear community commitment and widespread support, resourcing a patrol can cause conflict. This is said to be particularly so in relation to vehicles, which can be appropriated for the wrong purposes if there is no clear agreement in the community about their appropriate use (Blagg & Valuri 2003, p. 38).

205 In contrast, the study of violence in Indigenous communities by Memmott et al. (2001, p. 68) describes community patrols as a 'tried and proven' program.

206 They recommend longitudinal local evaluations to determine the impact of patrols on crime and safety problems. They suggest that the key index of crime and safety should not be primarily dependent on fluctuations in crimes reported to the police. They propose that a range of local indices established through victimisation surveys, rates of alcohol consumption, lockup statistics, road accidents, rates of family violence, and school attendance may provide better indicators of the work of patrols (Blagg & Valuri 2003).

- Some community patrols have also experienced opposition from within the Indigenous community, revolving around the use of force and coercion, and reflecting 'dissonance between … individual rights … and the collective rights of Aboriginal people to police their own' (Blagg 2008, p. 111; see also Blagg & Valuri 2003, p. 59).
- Patrols sometimes perform a 'street sweeping' function by simply moving young people on rather than actually providing a service (Blagg & Valuri 2003, p. 59).

In Queensland

Community patrols exist in Queensland but are not common or necessarily sustained over a long period. For example, there have been community patrol initiatives linked to community justice groups and funded through small government grants in Kowanyama, Palm Island, Yarrabah and Mornington Island (Blagg & Valuri 2003, p. 7).

At the time of our inquiry:

- The Palm Island Men's Group had state government funding for a night patrol.
- As we have noted above, at Doomadgee after the termination of community policing, the community justice group began a night patrol, funded from Commonwealth and state government sources.
- Funding for a night patrol was provided to the community justice group on Mornington Island.
- On Thursday Island, the 'Kuki Patrol' provides a street patrol service focused on community safety and crime prevention. Patrol staff members are Indigenous and receive training locally, sponsored by the local council. We were advised that patrol staff wages are supplemented by CDEP funds. The Kuki Patrol uses marked vehicles, with its latest vehicle funded by the Torres Strait Regional Authority. The number of staff and vehicles was expanded in 2007 (*Torres News* 2006).[207]

Some police were fairly dismissive of the value of community patrols as they have been implemented in Queensland's Indigenous communities. In particular, police commented that there was 'no accountability' to ensure that an appropriate or sustained service was provided with funds allocated for community patrols. It was the view of some officers that such money was often wasted as no real service, or a very short-lived one of a poor standard, was provided.

It is our view that while community patrols may sometimes demonstrate important efforts to reassert local authority, particularly as a short-term response to a particular issue or an increase in problems for example, they can also often suffer from many of the 'worst' factors afflicting models for local people in policing roles in that they tend to be poorly resourced, trained and otherwise supported.

Security services

Although to some extent the distinction between community patrols and private security might be blurred, depending on the nature and extent of Indigenous involvement and the methods of operation of the security service, there seems to be increasing reliance, in some communities at least, on private security firms to deal with problems of community safety.

For example, when employment of the community police was terminated at Napranum, the community justice group used its funds to pay for a private security service that was Indigenous-owned and largely staffed by local Indigenous people, who were trained by the company to qualify for industry certification. However, the community justice group could not afford to sustain the company's services and the council declined to pay for the service

207 In practice the Kuki Patrol merges elements of both a community patrol and a security service as it also provides security services on a commercial basis to local businesses, private households and special events.

because of lack of funds. The security service appeared to have some support from community members, especially as about 20 local people received training, qualifications and casual employment in Napranum and around Weipa. There also appeared to be some attraction to the 'self-policing' aspect, given that after the demise of the local community police there was no longer any Indigenous role in policing. One Indigenous woman from Weipa, who was employed by the service, told us forthrightly that the security service 'is the best f***g thing to happen around here!'.

The police at Weipa were more ambivalent about the short-lived service, noting that the company had a brief history and no established reputation. The relationship between security staff and police appeared to have tensions, with security staff criticising police for perceived inconsistent support, particularly for failing to respond to their calls when security patrols encountered juveniles committing property offences during the night. Police, on the other hand, claimed that the security patrol lacked the capacity to resolve incidents themselves, relying on the police to attend.

Difficulties with the standard model for police service delivery

The Queensland Government's policy of developing 'place-based' solutions to the difficulties facing Queensland's Indigenous communities recognises that Queensland's Indigenous communities are not standard communities with the usual problems to be confronted; it recognises their unique histories and cultures, that each community has distinct needs and capacities, and that these communities confront disadvantage on an enormous scale (see Chapters 4 and 5). The fragility and volatility of relations with police in these places are also unique. An approach that simply asserts that these communities should be policed in the same way as any other community in Queensland and offers only one standard service delivery model, even if it is couched in terms of 'equality' of service delivery, seems at odds with the notion of local solutions for local problems.

The notion of policing services being able to be delivered in Indigenous communities through a standard model of sworn police and PLOs is administratively attractive, perhaps. The situation in the outer islands of the Torres Strait, at the very least, demands that community police or QATSIP (or some similar role distinct from sworn police or PLOs) will remain a necessity for a substantial length of time, if not permanently. The QPS submission (p. 5) advises that it is not possible to provide a permanent state police presence on all the Torres Strait islands, but that it will deliver the standard service delivery model through a 'geographical cluster' approach, with policing facilities on three islands (Badu, Saibai and Yorke Islands). The submission provides no timetable for these plans, but senior police told us that the Badu police station is likely to be constructed first, possibly within two to three years, because of the 'problematic' presence of the QATSIP and the larger population of Badu and nearby islands.

The relatively high crime rates in the region and unique historical and cultural factors, including the high degree of success and pride associated with 'self-policing' in the Torres Strait, warrant a different approach being taken. The capacity of Indigenous people to undertake policing roles in the Torres Strait Islands should continue to be utilised and further developed.

In addition to being somewhat at odds with the notion of 'place-based' solutions, the Queensland Government's announcement of the move to a standardised service delivery model appears poorly conceived and poorly integrated with other aspects of criminal justice system policy and service delivery.

For example, it is at odds with the longstanding policy approach that has supported the development of local justice mechanisms such as community justice groups, 'law and order' by-laws and JP Magistrates Courts. Without community police or QATSIP, the sustainability of 'law and order' by-laws or JP Magistrates Courts would appear to be seriously jeopardised (see Chapter 17 for further discussion).

It also appears that the move to the standardised service delivery model was announced with such little regard for or understanding of the role performed to date by community police and QATSIP that there are no adequate plans for filling the gaps left by the phasing out of community police and QATSIP. For example:

- It seems that the community police and QATSIP officers in some communities provided the key policing presence in the evening and at nights, when most crime is occurring, and when state police are, it seems, unwilling or unable to work (see Chapter 9). The experience in Woorabinda and Injinoo after the QATSIP officers and community police finished at those locations, where it was said there was then a rise in offending, would also suggest that these Indigenous people played a significant role in dealing with crime problems in their communities, and that this role comprised more than just liaison.
- No adequate plans have been laid out to detail how the transition will be dealt with in the outer Torres Strait Islands, where QATSIP and community police continue to be relied on.

Although the cost has not directly been cited as a reason in support of the government's announcement of the move to a standard service delivery model, it has been cited several times previously by the QPS as a reason that the community police function should not be transferred to the QPS, or as a reason to refuse expansion of the QATSIP scheme (see QPS 2003a, 2003b). Such claims should be carefully considered in the light of the feedback we were given about the immediate impact of the loss of QATSIP and community police in Woorabinda and Injinoo respectively. While the QPS claims that the issues are not related, the phasing out of QATSIP in Woorabinda and the transition to a model of sworn police and PLOs has seen the policing presence in Woorabinda change from 5 sworn police and 5 QATSIP officers to 10 sworn police and 3 PLOs, a far more expensive arrangement (QPS correspondence to the CMC, dated 3 September 2009).

Although the standard service delivery model has been described in terms of 'equality' for all, it effectively excludes Indigenous people from an active role in law enforcement in their communities by preventing them from undertaking any law enforcement role or policing powers. It denies Indigenous people developmental opportunities in any law enforcement role that may assist them to become sworn police. In this sense it is a policy of exclusion rather than of inclusion (as in the NT and SA).

Summary and conclusions: Indigenous people in policing roles — let's make it work

The QPS needs Indigenous people in policing roles in order to:

- develop community capacity, ownership and involvement in dealing with problems of crime and disorder
- assist non-Indigenous officers to operate in these culturally unique settings.

Having Indigenous people in policing roles can also help to supplement otherwise inadequate levels of mainstream policing services, as it does in the outer islands of the Torres Strait.

Having Indigenous people in policing roles is not, however, a simple solution to the problems associated with policing Indigenous communities; it is no miracle cure for poor relations between police and the community, nor is it a cure for high crime rates. Experience, community views, research and other reports all point to the inherent difficulties associated with being an Indigenous person in a policing role in your own community, including feelings of marginalisation from both the community and the police service. (These difficulties seem less apparent in the Torres Straits Islands, with its history of self-policing.)

It is possible that, given the right people, support and level of commitment from the QPS, any of the models — including the community police, QATSIP and PLO models — can make a contribution of fundamental importance in Queensland's Indigenous communities. For example, despite the challenges in particular communities, we saw highly committed and

skilled individuals who were making the community police and the QATSIP models work. Equally, however, with the wrong people, inadequate support or lack of commitment from the QPS, any of the models can be not just a failure but actually detrimental to good relations.

On the other hand it cannot be said that all the models — community police, QATSIP and PLOs — are equal. Some are clearly more problematic than others. It is our view that there are some clear principles that should determine the roles of Indigenous people in policing their communities in order to maximise the contribution they could make to the safety of their communities.

Indigenous sworn officers

Having local people play a significant role in policing their own communities in roles as sworn police in Indigenous communities is a worthy goal and one that should remain. There are very real challenges to achieving the recruitment and retention necessary for Indigenous sworn police to reach the number needed to reflect the communities they are policing, or the level of Indigenous representation in the criminal justice system.

The QPS entry requirements (including the requirements relating to past criminal convictions), the reluctance to leave the community (even temporarily for training), the complications involved in policing one's own community and the pull of other places and opportunities for those who are capable and willing to undertake this training, will remain barriers to increasing the numbers of Indigenous sworn police in these communities. Building any substantial number of Indigenous officers in Queensland's Indigenous communities remains a long term proposition.

While the QPS has taken some strong steps to improve the recruitment of Indigenous people generally across Queensland, and the JEP program appears to be a success in this regard, recruiting of Indigenous sworn police from Queensland's Indigenous communities remains rare. The research of the NSW Ombudsman (2005) identifies strategies being used to increase recruitment are worthy of consideration for use:

- serving Indigenous police officers mentoring possible recruits while they are still at school
- serving Indigenous police officers mentoring new recruits
- having special intake blocks of Indigenous people, which could help create better support for the recruitment and retention of Indigenous sworn officers (see also Johnston 1991, vol. 4, p. 152); such intakes would not have to be limited to Indigenous recruits but would simply include Indigenous recruits in sufficient numbers for there to be some degree of mutual support.

Such strategies may assist the QPS to recruit Indigenous sworn police from Queensland's Indigenous communities in the longer term.

➡ Action

Recruiting Indigenous sworn police from Queensland's Indigenous communities should be a specific focus of the QPS's Indigenous recruitment strategies and programs. Targets should be set for recruitment of Indigenous sworn police from Queensland's Indigenous communities; to be realistic they need to be relatively long term. Block intakes for a number of Indigenous recruits, allowing them to support one another during training, should be considered.

Community police untenable

We agree with many other reports that have suggested that the fundamental weakness of the community police scheme is that they are not part of the QPS but must rely on the QPS for effective training and supervision. This fundamental weakness justifies their replacement with a better model. Community police should not be continued to be relied on to do difficult and dangerous work without proper training and support. In places where community police continue to operate with some success, such as in Aurukun, they should continue to be supported until such time as there is a viable alternative to which the community police can be transitioned.

PLOs are not ideal in these communities

It is our view that the role of PLOs in Queensland's Indigenous communities is also greatly compromised for a number of reasons. The key problem is that their lack of powers means they have little in terms of a sense of control or ownership of policing issues in their communities. They tend to fall into the invidious position of acting as a 'snitch' — that is, someone whose primary role it is to help police identify offenders. Being dressed in full police uniform further contributes to the difficult standing they have in the community, as it sends a clear message that, although they are not police and have no powers, they are on the police 'side'.

PLOs are easily marginalised from the police service and from the community. PLOs themselves can become a flashpoint for tensions rather than a bridge between the two 'sides'. Indigenous people need a real stake in dealing with the crime and disorder problems in their own communities, including in policing them. PLOs are not the best vehicle for achieving this goal.

It should be noted that the use of PLOs, in association with the operation of PCYCs or other sport and recreation programs, may provide a notable exception to our general comments regarding the role. The use of PLOs in association with the PCYC program, for example, does not involve the PLOs wearing police uniform and they have a role that is clearly defined in the eyes of the community as being focused on crime prevention and community development (see Chapter 9 for further details of the involvement of PLOs in the PCYC and CAPE programs in Indigenous communities).

QATSIP — the most promising model in Queensland

Although there are certainly difficulties associated with the QATSIP model, in Queensland it has been the most successful of all the efforts to include local Indigenous people from Queensland's Indigenous communities in policing roles.

The QATSIP model seems to have enjoyed generally high levels of support from local QPS officers, Indigenous communities and QATSIP officers themselves. Although the QATSIP model is not without its challenges, QATSIP officers have achieved a commendable degree of respect and credibility with communities and police. This appears to have arisen in large part as a result of having QPS backing (including training and supervision) and some powers to act.

To say that the QATSIP model is the most successful model we have seen in Queensland is not, however, to say that it is the best possible model. The QATSIP model has weaknesses not present in the NT or SA schemes. Such weaknesses include that QATSIP can only enforce by-laws, they receive limited on-the-job training, and they have problematic status within the QPS (they are classed as 'other employees', along with cleaners and the like).

Some of the reluctance to commit to such a model in the past has been said to be due to costs. It is our belief that such an argument is too short-sighted: if QATSIP can be effective at reducing crime or reducing the need for fully sworn QPS officers, in the longer term such a model would lead to substantial savings.

In contrast to the situation in Queensland, from information we received during consultations it appears that police services in South Australia and the Northern Territory have given strong support and a long-term commitment to models whereby Aboriginal people have been given limited police powers, and in some areas they have also carried accoutrements (see Johnston 1991, vol. 4, p. 160). The schemes in these jurisdictions have been operating for a long time and, though problems have arisen, they have been managed, as indeed they must be with any other aspect of police service.

It is our view that the QPS should commit to developing a model for local Indigenous people to play a real part in policing their own communities in Queensland's Indigenous communities. The QATSIP model should provide a starting point, but it should be redeveloped and this redevelopment should be informed by the NT and SA schemes. Indigenous people performing this policing role in Queensland's Indigenous communities must:

- be provided with adequate powers to ensure they can act in ways to make a difference and to win the respect of their communities
- not be limited to enforcement of by-laws — even if only because 'law and order' by-laws do not exist in all communities (see Chapters 6 and 17 for details)
- be appropriately trained and supported, including by local police.

Because of the number of people in Queensland's Indigenous communities who would otherwise be excluded from taking up such positions, prior criminal convictions should not act as an automatic bar to performing the role. Consideration should be given on a case-by-case basis as to whether the risks involved in appointing an individual with a prior criminal conviction can be justified.

➡ Action

The Queensland Government and the QPS should commit to supporting a model, which improves on the QATSIP model, for local people in Queensland's Indigenous communities to be appropriately trained and supervised so that they can play an active role in law enforcement and other policing activities in their own communities. The officers should be employed, trained and supported by the QPS. This role:

- **should not be limited to the enforcement of by-laws**
- **need not automatically exclude all potential applicants who are local people with prior criminal convictions**
- **should be seen as of particular importance in the Torres Strait Islands, where it can be an important supplement to the policing services otherwise provided by the QPS.**

Training for local Indigenous people to perform these roles should be designed specifically with Indigenous learning styles in mind.

➡ Action

In 2011, the CMC will review how effectively police stations in these communities are using, managing and supporting Indigenous people in policing roles. The results should be publicly reported and should be reported back to the communities themselves.

This review will be similar to that conducted as part of the NSW Ombudsman's local-level audit. Part of that audit considered the role of Indigenous people in policing roles at the local level (see NSW Ombudsman 2005).

Community patrols

Finally, we want to sound a note of caution in relation to the Queensland and Australian Governments' increasing willingness to fund and perhaps even to rely on community patrols. Community patrols may appear to be a relatively cheap and simple solution to providing local people with a real stake in dealing with the crime and disorder problems within their own communities.

However, care must be taken to ensure that problems that have previously been identified in relation to community patrols, and the other models for involving Indigenous people in policing roles, do not plague these newly funded, locally based initiatives. Threats to the effectiveness and sustainability of community patrols include short-term funding, limited training, poor understanding and conceptualisation of the role, and a low level of integration with the QPS.

There has been little evaluation conducted of community patrols, although feedback suggests that they are generally positively regarded by communities themselves. In Queensland's Indigenous communities, most police who have had firsthand experience of community patrols being funded appear unconvinced of their value.

➡ Action

That careful consideration must be given to provision of further funding to community patrols by the Queensland and Australian Governments for Queensland's Indigenous communities. The decision to provide such funds should be informed by, and seek to avoid, the common problems that have plagued community patrols and other models by which local people have been put into policing roles in their communities.

11

QPS SUPPORT TO POLICE IN INDIGENOUS COMMUNITIES

We have already documented many reasons for Queensland's Indigenous communities not being easy places to live in or to work in, and for them having a sizeable and apparently entrenched crime problem (see Chapters 3 and 4). We have also previously referred to some of the difficulties the QPS has in keeping positions in these communities filled (see Chapter 6). Being a police officer in these communities is a difficult and complex role; however, for the right officers with the right level of support from the QPS and their community, it can also be a very rewarding one.

The importance of keeping policing positions filled in these communities cannot be overstated. The problem of attracting and retaining officers to work in Queensland's Indigenous communities is not one that is going to go away, but rather is one that may get worse. Few police officers choose to build a career from experience in policing Indigenous communities; indeed there is arguably not enough encouragement from the QPS for them to do so.

In this chapter we focus on the challenge to the QPS of keeping officer positions filled in Queensland's Indigenous communities. In Chapter 7 we noted that individual officers — including a number of 'legends' — have made a successful career from the skills developed working in these communities. These officers were able to develop strong relationships across a number of communities. The challenge for the QPS is to develop an organisational approach to support and encourage the development of such success stories, and to encourage all officers to perform better in Indigenous communities, rather than simply attributing the success of the 'legends' to their unique personal characteristics.

We discuss three aspects of support provided by the QPS to officers working in Queensland's Indigenous communities and make suggestions that may help to recruit and retain officers:

1. **Incentives, including financial incentives and accommodation for police in Indigenous communities**
2. **Cultural training for police serving in Queensland's Indigenous communities, to provide preparation and ongoing support**
3. **Other organisational support that is currently provided on a regional basis (through regional HQ) and the Cultural Advisory Unit.**

Staffing: keeping numbers up

Recruitment and retention difficulties

The nature and size of the problem

As we noted in Chapter 6, the Queensland Government has for some time sought to increase the police presence in Queensland's Indigenous communities, but filling all of the allocated positions in these communities, and retaining police in these positions, is difficult. To some extent this difficulty reflects:

- QPS-wide recruitment and retention problems
- that the QPS faces the same well-known difficulties as do other services — such as health and education — in attracting and retaining people to work in regional, rural and remote locations.

In our consultations the QPS has acknowledged that there are a number of Queensland's Indigenous communities for which, from time to time at least, it is particularly difficult to attract and retain officers. A lot, however, rests on the appointment of good OICs. OICs appear to quickly develop a reputation within the service and the appointment of a good OIC, even to an otherwise 'unpopular' community, can make a substantial difference in attracting other officers to that location.

During our initial consultation visits in 2007, police in some of Queensland's Indigenous communities were operating with a substantial number of positions vacant, including a number of OIC positions that were vacant or were being filled on a temporary basis:

- when we visited Bamaga there was an acting OIC and only three of six staff
- at Aurukun on our first visit there was an acting OIC and only three of eight staff; we were told that within the last 12 months the best position that police numbers had reached was when seven positions were filled
- at Kowanyama only four of eight positions were filled and we were told that the best they had in the last 12 months was six positions filled
- at Woorabinda all five sworn officers were present, but five QATSIP positions had not been replaced (see Chapter 10)
- the OICs at Horn Island and Lockhart River were about to leave and their replacements were yet to be determined and would not arrive for several weeks.

The issue of police recruitment and retention was at the forefront of community concerns about police in many locations. For example:

- Many community members were very critical of the QPS for not maintaining staffing at the full complement, as this was said to reduce the capacity of police to respond to incidents and provide other policing services. In Aurukun, for example, community members themselves have drawn a direct connection between the number of police and levels of crime:
  - the Aurukun community justice group commented about the police staffing situation at Aurukun at the time of our first visit, saying that 'the QPS has really let us down since the riot'
  - the Aurukun Shire Council recently called for more permanent police, claiming that crime and violence decrease when police numbers in the community increase (see Barry 2009a, 2009b).
- Community members also frequently expressed concern that outgoing OICs are not replaced for weeks or months (though the QPS has Sergeants available who can act in place of the OICs for at least some of the interim period). This was a concern as the OIC is seen as being so central to the success or otherwise of local police.

Local police were equally clear about the importance of maintaining police numbers at appropriate levels. For example, one very experienced OIC commented that maintaining numbers 'is absolutely essential' in Queensland's Indigenous communities, although he also commented that senior officers who had not served in such locations did not appear to appreciate this 'imperative'.

In our discussions with members of the QPS involved in managing recruitment and retention matters for Queensland's Indigenous communities, the staffing situation was referred to as being in a 'crisis' in 2007. Comments included that:

- 'we can't fill the vacancies that we have now, never mind the announced increases to allocated police numbers'[208]
- there is a 'small gene pool' of officers suitable for these communities
- many applications for these locations are uncontested — that is, there is only one applicant for the advertised position
- one Senior Constable position in a community was advertised twelve times before the position could be filled
- it is most important (and difficult) to attract experienced officers at the Senior Constable level and above, rather than more First Year Constables or other junior officers.

At an individual officer level, it was clear to us that there was some great dedication to trying to deal with the staffing difficulties arising in Queensland's Indigenous communities. For example, the District Inspector responsible for the QPS Cape York District (which includes most of the Indigenous communities in the Cape and all those in the Torres Strait) in the Far Northern Region advised us at the public forum conducted by the inquiry that, despite the fact that he has a Senior Sergeant to assist him, he spent about 60 per cent of his time on staffing matters, mostly recruiting officers to work in Indigenous communities. He also advised that he 'felt guilty' taking officers away from operational teams in Cairns and depleting their numbers, to fill vacancies in the Cape communities. One local OIC also described spending a substantial portion of time trying to recruit officers.

Our consultations undertaken with police in 2009 indicated that recruitment and retention of officers to work in Queensland's Indigenous communities remains an ongoing challenge. The crisis situation that we saw in 2007 appeared to have been alleviated, however, by a number of factors:

- an increased focus from the QPS on recruitment and retention, including a focus on filling the increased number of allocated officer positions announced for many communities in 2007 (see Chapter 6)
- the impact of the upgrading of OIC positions in many of these communities from Sergeant to Senior Sergeant (see Chapter 6), which has made the OIC positions a far more attractive option for those seeking a promotion, provided they are prepared to commit to two years service in these communities
- increased financial incentives provided to many officers in these locations from 2008.

This appears to have resulted in a cycle of relatively stable staffing in many communities, as officers have been appointed for periods of two years. However, in many communities this cycle is now drawing to a close as officers have served their two-year tenure and are looking for positions elsewhere.

208 As described in Chapter 3, the Queensland Government has increased the number of allocated police officer positions in Queensland's Indigenous communities over a number of years, most recently in 2007. As also noted in Chapter 3, despite the government's efforts to increase police numbers, some communities continue to request further increases.

'Repatriation' of officers from these communities to positions in other locations also raises some problems. Some officers expressed concern that service in an Indigenous community was not valued within the QPS and did not help in obtaining positions elsewhere. Some officers stated that they became 'de-skilled' in these roles, but others commented that the level of responsibility and the level and seriousness of the crime problem in these locations left them well placed for applying for promotions elsewhere.

Many concerns were raised with us about the 'transition' period in communities as this cycle draws to a close. Officers commented that the QPS does not handle these transitions well, particularly in relation to the departure of an OIC and the arrival of a replacement. To avoid a period of 'surplus', OIC positions are not advertised until the incumbent has been successful in an application for a position elsewhere. This means that handover periods between OICs are very rare and there is little, or no, opportunity for a departing OIC to pass on knowledge, skills and contacts developed in their time in the community.

Why is it difficult to attract and retain the 'right' officers in these locations?

There are many possible reasons for the reluctance of officers to work in Indigenous communities. For example:

- Lifestyle factors and issues relating to the remoteness of the communities and the lack of services, as described in Chapter 3. For example:
  - Consultations with local police highlighted their sense of social isolation in these communities as an important factor. Officers and their families tend to socialise mainly with one another, or with other non-Indigenous workers such as teachers and nurses in the community.[209] One very experienced OIC told us that having a social life with community members was complicated for police because they are the police, but also because of cultural differences and the fact that police are only transient members of the community. We were told that this social isolation can sometimes lead to problems affecting the work environment. One OIC complained that one of his most demanding responsibilities was maintaining harmony among his officers, who were 'living in each other's pockets'.
  - We were told that, as the average age of new recruits had increased in recent years, many are already married and some have children. This was thought to often preclude such recruits from coming to remote communities, given the problems with police accommodation configurations (for example, barracks where married quarters are needed) and the disruption to schooling of children.
  - Some officers expressed concern about the stress and disadvantage that living in these communities puts on partners and children. Although we did hear of some police officer families who had adapted successfully to community life, we also heard about:
    - concerns that children were receiving substandard education, or that officers were having to bear the cost of sending children away to boarding school
    - families of police officers deciding to leave the community to live in the closest regional city, because of the advantages for family life.
  - Alcohol restrictions, which apply to all those living in the communities, were said by some police to adversely affect their social life and the amenity of living in Queensland's Indigenous communities.
- We also heard that negative experiences or views of a small number of officers in particular communities, or about OICs, could quickly have a very damaging effect on recruitment as they circulated on the QPS grapevine.

209 As discussed in Chapter 9, many community people were critical of the police for not socialising more with community members.

- The high rates of crime, the entrenched, multi-layered problems that we have described in Part 1 of this report, and the volatility of relations described in Chapter 7 may also add to the difficulties in recruiting and retaining police. As we described in Chapter 7, a number of experienced officers made comments that these aspects had a 'tiring' effect over time.
- Cultural differences, which affect people in both subtle and substantial ways, may cause some police to prefer to work elsewhere or may mean that working in an Indigenous community is only seen as a short-term proposition.

Many of the factors listed above are, to a large extent, out of the QPS's control. However, we also gained a strong impression from our consultations that the lack of organisational support provided by the QPS to its officers serving in Queensland's Indigenous communities was a very real factor that reduces the capacity to attract and retain officers.

For example, we are aware that, since the time we conducted our consultations for the inquiry, the QPS has lost a number of those officers who had made working in these communities their career and who were very highly regarded by the communities they worked with and by other officers. Included in this number were two of the 'legends' we referred to in Chapter 7 (that is, long-serving officers who were so highly regarded by Indigenous communities that they had achieved 'iconic' status). Both of these officers left to take up positions with the Australian Federal Police, which they said provided greater opportunity for promotion than was available within the QPS as Indigenous policing specialists; both also mentioned feeling 'fed up' with the lack of support from the QPS provided to those working in remote locations. It is aspects of this QPS support to police in Indigenous communities that the QPS can improve.

What is the current QPS approach to recruitment and retention?

The QPS currently has a mixture of 'tenured' and 'short rotation' positions in Indigenous communities:

- *Tenured*: As a general rule, because the QPS values police gaining experience in a range of settings, it does not believe that officers should stay in any particular location for an extended length of time and applies a system of 'tenure' to all positions and locations. Since the Fitzgerald Commission, the QPS has generally introduced shorter periods of tenure in order to lessen the risk of corruption. Typically, tenure periods of three years (minimum) to five years (maximum) apply to most positions. However, the period of tenure for most Indigenous communities is two to three years. In some cases, officers choose to stay longer, but that is relatively uncommon.
- *Short rotation*: In addition to tenured positions in these communities, junior officers are often 'rotated' into communities to ensure that there are sufficient resources to meet the community's demand for policing services. Typically, officers are rotated into an Indigenous community for two to three periods of six months each.

Short rotations provide a relatively 'cheap' solution to the staffing problems in Queensland's Indigenous communities as the QPS is not required to pay officers on these rotations relocation costs or the usual allowances associated with working in these locations in a tenured capacity or in a relief capacity (see below). This means, however, that there is little scope for such rotations to be extended even where the officer requests such an extension, because of the extra costs that would be incurred by the QPS if officers stayed in a community beyond a particular length of time.

The inquiry was advised by senior police that most police stations in these Indigenous communities are designed to be 'self-relieving' — that is, police numbers are meant to be such that existing resources can adequately 'cover' for temporary short-term absences.

What can be done to improve the situation?

We found that there are a number of competing demands regarding the appropriate length of tenure for positions in Queensland's Indigenous communities.

On the one hand, Indigenous people in these communities like to get to know officers personally and this takes some time, so community members want valued officers to stay for a lengthy period.

Police officers also admitted that there is a very steep learning curve for about the first six months in these communities — they stated that it takes about that long to get a 'handle' on the job and community issues. However, most officers believed that service in positions in these communities should generally be time limited. Officers raised concerns that if they stayed too long in an Indigenous community they might:

- begin to 'normalise' a level of violence that they would not accept if policing in other locations; one officer gave the example of a recent experience in which he had 'shocked himself' as he felt 'bad' taking action against a man for domestic violence against his wife in circumstances that the officer thought she, and the community generally, would accept 'warranted' the man's violence
- begin to de-skill, meaning that they would not be getting exposure to new challenges; a number of officers also mentioned the difficulty in attending courses and other training from remote postings.

Generally officers suggested that the length of period of service in Queensland's Indigenous communities should be between 18 months and three years, depending on the community. We did find that there are officers who are able to live and serve in a particular community for many years without any apparent adverse effects on their policing or their career aspirations, but these officers appeared to be the exception rather than the norm.

Although the six-monthly rotation of police officers into these communities is currently necessary to maintain police numbers, it is a practice that is far from ideal and it should not be seen as a long-term solution. Rather than continuing to rely on short-term rotations, in the long term the QPS must implement a range of strategies to make policing in Indigenous communities a more attractive choice for officers. To achieve this broad goal, strategies are needed in three areas:

1. Incentives (including accommodation)
2. Cultural training for police
3. Other organisational support.

Incentives

To overcome the perceived disadvantages and hardships associated with these locations, the QPS provides a number of incentives to encourage officers to work in Indigenous communities. For some time, as part of their employment conditions, sworn officers serving in these communities have received benefits that may include:

- free accommodation provided by the QPS
- a locality allowance of up to $352 per fortnight, depending on the community[210]
- an operational shift allowance in lieu of overtime, on-call, shift work, weekend duty, public holidays and leave loading
- an additional five days recreation leave per year
- an annual return airfare (member and family) from the community to a designated centre (such as Cairns).

210 The QPS currently uses a method to 'rank' or 'scale' the communities so that officers receive greater compensation in those communities that are the most remote etc.

During our initial consultation in 2007 we heard from police and others that QPS incentives were considered insufficient and ineffective in attracting and retaining police to work in Queensland's Indigenous communities. They said that:

- The incentives did not necessarily compare favourably with those for policing positions in less difficult locations. For example, one officer stated that a Beat Officer in Nerang could also get the benefit of living in a police residence and would receive a similar operational shift allowance to officers working in Lockhart River, yet the officer in Nerang is only a short distance away from the Gold Coast or Brisbane, whereas the officer in Lockhart River is much more remote. Other officers queried why officers in places of considerable remoteness, such as Kowanyama, Doomadgee and Aurukun, should receive much the same incentives as those in Yarrabah or Cherbourg, which are much less remote.
- The incentives compared unfavourably with those provided by other agencies. For example, we were told that some other agencies provide their staff with more trips out of the communities per year than the QPS does. As well as trips to regional centres, some agencies ensure that staff can have 'long weekends' out of the community, in places such as Weipa. A contrast was also drawn with the Australian Federal Police, who were said to more effectively use a mix of incentive strategies to attract police to places such as East Timor. These were said to include substantial financial incentives, promotional opportunities and recognition of a hardship posting that is taken into account during an officer's reassignment at the conclusion of the tour of duty.

Police suggested that improvements could be made to ensure that there was a package of incentives available which work to make Queensland's Indigenous communities more attractive to police. Ideas included:

- Greater financial incentives should be provided, such as:
  - a revision of the locality allowances to provide fairer ranking of Indigenous communities, allocating weightings to locations based on criteria such as remoteness and the services available; this would better address the problem of some communities being more difficult for attracting and retaining staff than others; in this way, for example, officers in remote locations such as Lockhart River, Doomadgee, Mornington Island, Kowanyama and Aurukun could receive more than those in locations close to regional centres, such as Cherbourg and Yarrabah
  - assistance for those police officers with families to send their children to boarding school
  - internet and pay television connection repayment
  - tax concessions for those working in remote areas (of course, personal income taxation is a Commonwealth responsibility).
- More short breaks away from the community should be provided. Officers are given an annual trip to a regional centre and, for many, this will be a trip to Cairns.[211]
- Opportunities for development and promotion should flow from service in Queensland's Indigenous communities.

During our consultations, several community members expressed some concerns about increased incentives, as they did not want police officers to come to their community 'for the money' — either for the promotion in rank or for financial locality incentives.

211 In addition, some officers suggested that holiday accommodation in Cairns at the QPS-owned motel facility could be provided as an incentive to many officers serving in Queensland's Indigenous communities. Some officers said that the annual trip to Cairns was expensive despite the free flights, because of the costs associated with accommodation. On the other hand, some officers said that the last thing they would want to do on their break is stay in QPS accommodation; they said they had always found good-value accommodation to be fairly easily available.

Since the time of our initial consultations, some new incentives have been announced:

- A new Indigenous communities 'area allowance' of $10 000 (paid fortnightly) came into effect from 1 July 2008 and applies to Aurukun, Bamaga, Kowanyama, Lockhart River, Pormpuraaw, Yarrabah, Doomadgee, Mornington Island, Palm Island, Woorabinda, Cherbourg, Wujal Wujal and Hopevale.[212]
- A further new incentive scheme began on 1 January 2009 to provide incentive payments of between $2000 and $5000 to officers at locations including Horn Island, Weipa and Thursday Island (this scheme does not apply to the other Indigenous communities listed above) (Spence 2008a).

Our consultations in 2009 indicated that these new financial initiatives had apparently hit the mark. Officers reported that they felt they were financially 'well rewarded' for their service in Indigenous communities. However, an ongoing concern was that service in Indigenous communities was not properly valued in other ways within the QPS; this was said to be a 'cultural issue' within the QPS.

The QPS must ensure that there continue to be real incentives — financial and otherwise — for officers to serve in these places, particularly in those locations where it is most difficult to keep positions filled. These incentives must outweigh those provided to officers in far less isolated locations and must effectively compensate for the many difficulties police and their families may encounter living and working in Indigenous communities.

Accommodation

As we have stated, police officers working in Indigenous communities are provided with accommodation as part of their employment conditions. Currently, the QPS owns and administers nearly 50 residential properties in Queensland's Indigenous communities.

In recent years, governments at every level have made substantial efforts to improve the standard and adequacy of housing, including for police, in Indigenous communities. In 2007 the Queensland Government and the Australian Government allocated $15 million for new police housing in seven communities:

- Mornington Island: 2 houses, 1 × 3-bed duplex and 1 × studio quadplex
- Hope Vale: 1 × 3-bed duplex
- Aurukun: 1 house and 1 triplex
- Woorabinda: 3 houses and 1 triplex
- Lockhart River: 1 × 3-bed duplex
- Pormpuraaw: 1 × 3-bed duplex
- Doomadgee: 1 house and 1 × 4 studio quadplex (Bligh 2007).[213]

The Queensland Government's former Government Coordination Office — Indigenous Service Delivery and now ATSIS have made the coordination of solutions to accommodation problems for service providers one of their priorities (see Indigenous Government Coordination Office 2009).

212 This area allowance was introduced as part of the improved conditions negotiated by police in the latest enterprise bargaining agreement, the Queensland Police Service Certified Agreement 5-2007, known as 'EB5', which was certified by the Queensland Industrial Relations Commission on 19 December 2007. Although the allowance is available to all police working in the communities cited above, certain conditions apply to rotational and relieving staff that affect their eligibility for the allowance (such as the length of time spent in the community).

213 In March 2009 the Australian Government announced that $5.5 billion would be allocated over 10 years to deal with housing problems in 26 large Indigenous communities across the country, including some in Queensland. Which communities are to be included, and whether this money includes any further funds for police accommodation, has not yet been announced (it may focus on provision of housing for community members) (ABC news 2009d).

Despite these efforts, providing and maintaining adequate housing in Queensland's Indigenous communities for those working in the communities continue to present an enormous challenge; it has been described by the Queensland Government as 'one of the major impediments' to service delivery (Indigenous Government Coordination Office 2009). Difficulties include:

- land title issues and negotiating access to land
- lack of skilled construction workers and tradespeople, especially electricians and plumbers, to build and maintain housing
- difficulty gaining access to some communities at certain times of the year (such as during the wet season)
- the high cost of building and maintenance in remote communities.[214]

During our consultations, both police and community members at several locations continued to identify matters of concern relating to police accommodation within the communities. Accommodation standards were generally described by police as being poor, 'substandard' or even 'deplorable'. Local police described various shortcomings with police accommodation, including the age and standard of housing, maintenance problems and accommodation configurations that are inappropriate and inflexible. For example, we heard that:

- there are too many single-officer quarters and not enough family housing in some locations (for example, Palm Island has a lack of suitable family accommodation)
- one OIC said that he had to live in the windowless station storeroom for two months after arrival at his new posting
- aspects of the accommodation make policing more difficult; for example, at Lockhart River police described the challenges they faced stopping grog running when the lack of an enclosed carport meant that everyone in the community knew when officers were at home and when they were out on patrol; 'when they see the police car at the station, that is when the party starts'
- repairs requiring tradespeople often take some time to organise; for example, we were told of an officer and his family who had no hot water for weeks because of the limited availability of plumbers.

At Woorabinda, the situation is currently appalling. As we stated in Chapter 6, community officers have been living for over 12 months in shipping containers while the QPS and the Queensland Government have been waiting for agreement from the local council about where new accommodation for officers can be located.

It is our view that efforts to improve the standard of QPS accommodation in Queensland's Indigenous communities must continue so that accommodation problems do not act as a disincentive for many officers. In particular, the ongoing issues in Woorabinda must be immediately resolved. Concerns expressed by police about the practical difficulties associated with having no lockup garage should be considered in future designing of police accommodation.

Local community members also had complaints about police accommodation. In these communities, police stations and police housing are often located within secure 'compounds' or 'barracks' surrounded by high barbed-wire fences. (Police facilities at Yarrabah are within such a secure compound, for example, whereas at other communities, such as at Lockhart River, they are not.) In some places people saw these fenced compounds as evidence of a 'siege mentality' within the QPS. Many people said they wanted the police to live in homes 'with us in the community', not in a separate compound. (It should be noted that in some

214 For example, we were told in the Far Northern Region that building police residences in Indigenous communities typically costs $500 000 and takes about six months for construction to be completed. We were informed that there was at least $2 million of repairs to QPS property in this region outstanding at the time of our consultations.

communities other public facilities are similarly protected and in some locations, such as at Aurukun, many community homes also have high wire security fences.)

Although there is a need for adequate security, other — more subtle — security measures could be put in place to ensure officer safety, and fencing could be redesigned to provide privacy but to look less like a penal institution. The removal of the compound fences would have some symbolic value in enhancing relations. It is our view that the QPS should review the need for security compounds with a view to removing, wherever possible, high barbed-wire fencing so as to reduce the perception of police officers being isolated, defensive and unengaged with the community.

Police vehicles

The allocation of police vehicles may be inadequate in many Indigenous communities, where the police face challenges of grog running, parties, limited mechanical support and large areas to police. During our initial consultations in Bamaga we saw a situation arise in which police officers were required to use their own private vehicle as the police vehicle had already been deployed to respond to another incident.

The limited availability of police vehicles can create operational difficulties for police. For example, we were told that community members can often easily detect the location and activities of the police and how likely it is they may be apprehended for offending behaviour, by considering the location of the police vehicle at any one time. This is particularly the case where the police vehicles could be easily seen when parked at the station.

Cultural training for police

Over the last 20 years, police services across Australia have committed themselves to the development and implementation of training to improve the cultural 'awareness' of police working with Indigenous people. Commonly this has resulted in 'cultural awareness' or 'cultural appreciation' training being provided to new recruits training at police academies.

Why is cultural training important?

Regardless of our background, we are all culturally programmed throughout our life — we learn ways of communicating and ways of seeing the world through our culture. Therefore cross-cultural encounters can, by their very nature, be difficult. Cultural training assumes that knowledge can help us in cross-cultural encounters and that we are not born with the ability to interact successfully across cultures — rather, that such an ability is learnt.

Cultural training for police is important for many reasons. It has the potential to be a key to building successful relationships. At its core, cross-cultural training can lead to more effective cross-cultural communication through:

- helping to avoid cultural misunderstandings, stereotyping and ethnocentrism
- reducing the incidence of 'culture shock' for police and their families.

In the area of policing, law, crime and justice, there is much at stake in cross-cultural encounters — breakdowns in communication can lead to injustice (see *R v. Kina* Unreported, CA No. 221 of 1993 (29 November 1993) Fitzgerald P, Davies & McPherson JJA, Brisbane).[215]

215 In this case, an Aboriginal woman's conviction for the murder of her de facto husband was overturned on the basis that the miscommunication between her and her legal representatives was such that there had been a miscarriage of justice.

In Queensland's Indigenous communities it is impossible to police effectively without some knowledge of the complex cultures and social relationships within a community. In Aurukun, for example, there will be a steep learning curve for any outsider in order to understand the complexities of Wik and Wik Way society; having some understanding of kinship structures and relations between groups is a necessity for working successfully in this community. Several police, both Indigenous and non-Indigenous, told us of instances where they used their knowledge of local culture to overcome or avoid problems.

We met one remarkable officer who had learnt to understand and be understood in Wik Mungkan at Aurukun. We also heard that community members in various places appreciated police officers who would learn and use words in the local language. Such learning is obviously a long-term endeavour; for new officers such a strategy would be highly risky and they would be well advised to rely on the generally superior cross-cultural communication skills of local community members.

There is now a great deal of good-quality information available on aspects of culture in Queensland's Indigenous communities, including information on language and communication matters centrally relevant to policing. Much of this information is now referred to in the guidance materials prepared for judicial officers (see Eades 1992; JAG & Aboriginal and Torres Strait Policy and Development 2000; Supreme Court of Queensland 2005). For example, there is a great deal of information about the following aspects of communication that may arise in speaking with an 'Aboriginal English' speaker:[216]

- The effectiveness of indirect rather than direct questioning and the importance of non-verbal communication.
- The danger of 'gratuitous concurrence' — the tendency of some Aboriginal people to agree with a proposition or question when it is put to them, regardless of whether they truly agree with that proposition or question. They may not even have understood the proposition or question that has been put. Some Aboriginal people may be likely to 'gratuitously concur' with a proposition put to them by a non-Aboriginal person, especially when that person is (or appears to be) in a position of authority.
- The avoidance of direct eye contact, which, for an Aboriginal person, may demonstrate politeness and respect for persons of authority such as police, court officers, magistrates or judges. Direct eye contact may be interpreted as rudeness, lack of respect or even aggression. However, in non-Aboriginal society, direct eye contact is usually perceived as a sign of confidence, honesty and politeness and the avoidance of eye contact may be interpreted as sign of dishonesty, insecurity, or lack of interest or respect.

Because so many aspects of Aboriginal and Torres Strait Islander cultures that may be relevant to policing are peculiar to a particular place, cultural learning is heavily dependent on local context. During our consultations we heard of several examples of localised cultural expectations, and of instances where the apparent ignorance of police of these led to police being accused by community members of having 'bad manners'.

216 Aboriginal English can be distinguished from 'standard English'. The term refers to the various varieties of the English language used by Indigenous Australians. These varieties, which developed differently in different parts of Australia, vary along a continuum, from forms close to standard English to more non-standard forms. The furthest extent of this is Kriol, which is regarded by linguists as a language distinct from English.

Nature and size of the problem

During our community consultations it was obvious that the issue of cultural training to provide preparation and ongoing support to police is one of great importance to Indigenous Queenslanders. Community people were always very keen for police to have an understanding of local culture; it was a point made at almost every meeting we held. Indigenous community members said they did not like inexperienced officers or officers who were poorly prepared for working in their community.

However, few police we spoke with during our initial consultations in 2007 had received any cultural training or local community induction. One OIC said that police officers are generally poorly informed about what it is like to work in remote Aboriginal communities; he said 'people have no idea — they come out here thinking that they will be cooked in a pot or something'. Another referred to the 'culture shock' experienced by officers on arriving at the community, saying 'they spend the first month going around with their jaw dragging on the ground'. One OIC commented to us that he did not believe any cultural training was necessary as he said 'there is no culture left here'.

As we described above, in order to keep police officer positions in these communities filled, the QPS has adopted a policy whereby junior officers are rotated into the communities on a six-monthly basis. In practice this means that these junior officers are not receiving any cultural training (other than that provided at the police academy) and also that they have very little time to become familiar with local people, traditions and customs, and kinship structures.[217]

Previous reports

The QPS, and Queensland Government service providers generally, have struggled over several decades to provide adequate cultural training to those working with Indigenous people. The following reports have identified the need for improvements:

- The Royal Commission into Aboriginal Deaths in Custody (Johnston 1991) recommended that:
  - Such training should be developed in negotiation with local Aboriginal communities and organisations and, where possible, be given by Aboriginal providers (recommendation 210).
  - For police, a substantial component of recruit and in-service training should be about interaction between police and Aboriginal people, including 'practical advice as to the conduct which is appropriate'. Training should also include social and historical factors that explain the nature of Aboriginal and non-Aboriginal relations in society today (recommendation 228).[218]
- The Bingham review of the QPS suggested that cross-cultural training for police officers needed to be experiential and ongoing (Bingham 1996).
- The report of the Aboriginal and Torres Strait Islander Women's Task Force on Violence (1999, pp. 228 & 261) noted that officers must be properly prepared for working with Indigenous people, including through cultural awareness training at the local level.
- The Cape York Justice Study (2001) was critical of the fact that there was only one training unit about Indigenous people for serving officers available in the QPS Competency Acquisition Program (CAP). The study, however, described as 'positive' the DATSIP-funded Kowanyama trial that involved police camping for two weeks with residents before commencing duties. The report recommended that the QPS provide experiential training based on the Kowanyama trial for all officers who are to serve in Indigenous communities.

217 One OIC also noted that it was common for the rotation officers to not have completed other training required for remote postings, such as small-boat operation skills.

218 In 2007, a report tabled in the Queensland Parliament stated that the government considered that it had implemented recommendation 228 regarding training for police but that recommendation 210 required further action (Queensland Government 2007c).

- The Queensland Government committed to improving cultural awareness training of all justice agency employees as one of the 'supporting outcome' areas nominated in the Aboriginal and Torres Strait Islander Justice Agreement (Queensland Government 2001).
- The evaluation of the Justice Agreement by Cunneen, Collings and Ralph (2005, pp. 114–15) states that the QPS had indicated that three stages of cultural awareness training for the QPS were 'being developed' but had not yet been approved or implemented. It should be noted that the evaluation considered the progress made by all justice agencies, and found that the QPS model was 'the most developed' in comparison with the models of other agencies (p. 115).
- Evidence to the coronial inquest into the death of Mulrunji suggests that no training was given to police working in Indigenous communities other than what they were provided by the police academy at the recruit training stage. The self-directed CAP training units were available to the serving officers, but were not compulsory and had not been completed by those who gave evidence. Evidence to the inquest suggested that any local induction provided to new police was likely to be ad hoc and might or might not include any information on, for example, the role of PLOs, how local conditions might affect policing or how public order offences might be dealt with. The coroner's comments included that all officers working in Indigenous communities should receive experiential training based on the Kowanyama trial, as recommended by the Cape York Justice Study (Clements 2006). In response, the government has stated that it 'supported' this coronial comment (Queensland Government 2006c).
- A report commissioned by the Queensland Government after the death of Mulrunji and subsequent events on Palm Island recommended that experiential training going beyond the basic cultural awareness training currently offered should be introduced (see recommendation 29, McDougall 2006, p. 41).

This long list tells us that, despite QPS efforts to date, there are continued calls for the cultural training of police to be improved and, in particular, for more 'experiential' or on-the-ground guided learning.

What is the current approach to cultural training?

The QPS provides the following forms of cross-cultural training about Indigenous culture and people:

a. Training to police recruits at the academy; part of this training is delivered by Indigenous training providers.
b. In-service training provided through three self-directed training units in the QPS Competency Acquisition Program (CAP) on Aboriginal and Torres Strait Islander Peoples in Australian Society. These three units form part of a large number of non-compulsory self-directed learning modules available to all QPS personnel; a certain number of CAP units must be completed in order to qualify for incremental pay increases. The in-service cultural appreciation training is not compulsory for any officer. It provides three CAP units covering the following topics:
    1. Race relations
        - race, prejudice, ethnocentrism and you
        - racism
        - a historical perspective to 1860
        - separation and segregation from 1860
        - land rights
        - why should you oppose racism?
        - terminology and aspects of communication
        - implications for you as a police officer

2. Government and the law
    - contact — a clash of systems
    - impact of legislation
    - the Australian Law Reform Commission
    - the Royal Commission into Aboriginal Deaths in Custody (RCIADIC)
    - land rights: *Mabo v. Queensland* and other decisions
    - reconciliation
    - government response to social issues
3. Social issues
    - identity
    - health
    - alcohol, substance abuse and violence
    - the political scene
    - the future.

c. Community-specific induction packages, which have been introduced subsequent to the Mulrunji inquest (which revealed a complete lack of local preparation provided to officers serving at the time in the Palm Island community). These packages have been developed in consultation with each of the communities concerned (see submission of the QPS, p. 9). At 9 February 2009, the QPS had developed packages for 14 individual Queensland Indigenous communities and an additional package for the communities in the Northern Peninsula Area. The packages state that they have been developed in response to the various reports that have recommended community-specific training.

   Each package includes details such as the names of council members, the community services available and brief information on topics such as the history of the community, its people, cultural practices and communication techniques. The packages provide good introductory material about the communities and include useful guidance on the importance of building relationships and getting involved in community life. The packages may include, for example, some reference to the avoidance relationships, traditions and sensitivities associated with deaths, traditional places and concepts of time.

   The Palm Island package was developed as a pilot and had been implemented when we conducted our initial consultations; it was disappointing that several officers at Palm Island said when we visited that the local induction in reality meant they 'were just pointed at the package'.

We were informed during consultations that the QPS's Cultural Advisory Unit has been largely responsible for the development of cultural training for police, particularly the local induction training that has been 'under development' for many years (see also the submission of the QPS, p. 9). We were told that historically the development of these materials had faced barriers — including several project managers, no discrete budget, no project plan, no timeline — and that those working on developing the training were unable to travel to the communities in order to develop it. Although similar training courses exist and have been used by other agencies for some time, it does not appear that the QPS could easily take advantage of these to adapt them to suit the needs of police.

The difficulties and the delays experienced by the QPS in implementing the community-specific cultural training may reflect, in part, that:

- at least historically the QPS has not attached as much value to this type of training as is warranted
- cross-cultural training is not 'easy'; it is a challenging and relatively new area for police training, and there may be some uncertainty about how to effectively prepare and support officers in Queensland's Indigenous communities.

After several decades of this problem being highlighted for the QPS and a long struggle to develop a solution, the training materials as they stand subsequent to the Mulrunji inquest are sound, in so far as they go. It is a concern, however, that:

- there continues to be a total reliance on self-directed training, and there is no organisational encouragement and support for any locally based experiential training involving the local community (the need for which has been a consistent message to the QPS over a number of years); involving locals in such training is necessary not only to transfer necessary cultural knowledge, but also to highlight any historical events or issues with police that are significant to local people and that may affect relations
- there is no organisational encouragement and support for a continuing and ongoing cultural learning process (other than the self-directed learning provided through the CAP units)
- there is little emphasis on problems of communication (on the importance of observing, of listening carefully to learn), and the kinds of issues highlighted in the work of Dianna Eades, for example (see Eades 1992; JAG & Aboriginal and Torres Strait Policy and Development 2000; Supreme Court of Queensland 2005).

It should be noted that other jurisdictions appear to have made more concerted efforts than have been made by the QPS. In contrast, for example, SAPol provides all staff with cultural competence training.

Before we can consider, in our conclusions below, how the QPS might further improve its approach to cultural training, we must also consider the evidence about the effectiveness of cultural training generally.

Does cultural training work?

Although there has been little or no evaluation of cultural training for police in Australia, the emphasis in Australia since the 1990s on the need for cultural training for police has been mirrored in overseas jurisdictions such as Canada and Britain, in relation to the policing of First Nations peoples and ethnic minorities respectively. Unfortunately, the overseas evaluations of discrete educational initiatives and workshops have not been promising. Such evaluations tend to show that, though there may be some effective exchange of information, such training has little effect on the quality of policing or police attitudes or practices (see Rowe 2004).

For example, in Britain the racist murder of Stephen Lawrence in 1993 in London, the bungled police investigation that followed, and the subsequent inquiry and handing down of the MacPherson Report brought into sharp relief the issue of police relations with ethnic communities. In the post-Lawrence period there was extensive effort put into the delivery and evaluation of training programs for police in 'community and race relations' or 'policing diversity'. A three-year evaluation of these training programs conducted by the Home Office considered the impact of these programs in terms of the ongoing working practices of those who attended. In broad terms it was found that there was a general failure to transfer the training to the workplace and that more needed to be done to ensure that such programs were embedded into police work (Rowe 2004, p. 16).

In the field of psychology there appears to be a more developed understanding of what works to improve the cultural competence of those providing clinical services. This research shows that the development of guidelines for increasing the cultural competence of clinical psychologists can increase service utilisation and promotes beneficial outcomes for Indigenous clients (Vicary 2002; Dana 2000). A Cultural Competence Continuum for practitioners in this field has been developed to increase their level of competence in working with minority populations. This continuum has been used to design training programs and improve the self-awareness of clinicians regarding their strengths and deficits in working with minority populations. The continuum has been validated for use with services and practitioners providing counselling for Indigenous people in Western Australia (see Cross et al. 1989; Westerman 2003).

How can the QPS further improve its cultural training?

Despite relatively recent improvements, such as the introduction of community-specific training materials subsequent to the Mulrunji inquest, it is our belief that the QPS must still do more to support the cultural training provided to officers in Indigenous communities, particularly for those officers who may wish to specialise in Indigenous policing. Further strategies, such as those highlighted below, would complement the non-compulsory self-directed training packages currently available to all officers.

It is our belief that the QPS's approach to cultural training for its officers should be shaped by the understanding that:

- culture is a complex whole and cultural training will not be effective when it simply reduces a culture to a list of Indigenous cultural traits ('Aboriginal people do this or that …'); this is true at the local level and more broadly
- the QPS must promote the value of engaging with Indigenous people and with their local worlds; and of listening, observing and being able to communicate.

Cultural 'awareness', 'appreciation' or 'competency'[219] is therefore a process that continually evolves; cultural competence is an ideal to strive towards, rather than having a fixed end point or a point at which an individual achieves some level of technical mastery (that is, it cannot be considered 'done' when a training package has been completed). For this reason, the QPS should provide ongoing support to officers in Queensland's Indigenous communities to encourage the continued development of cultural competence.

There are various strategies that the QPS must develop to encourage the ongoing development of cultural competence. There may not, however, be a 'one size fits all' approach as the strategies may need to vary from community to community. For example:

- it was our observation that successful policing in these communities can be done in a variety of different ways, or might need to be done differently in some communities compared with others
- in some communities there may be cultural training programs already developed at a local level for service delivery staff belonging to other agencies; the QPS may be able to tap into those to meet part of its training needs.

Both communities and local police must have a say in what is the appropriate formulation of ongoing cultural training for police in any given local context.

During our consultations, some of the police who were well respected and experienced in working with Queensland's Indigenous communities said that they were sceptical about whether cultural training could provide the skills necessary to be a successful officer in an Indigenous community. At least to some extent, these views seem to be supported by the research evidence regarding discrete educational units or workshops that we have referred to above.

Many officers stated that the best learning happens when you have the right police officer with the right attitude learning on the job — this was said to usually involve informal 'mentoring' by an experienced officer-in-charge. A number of officers were open about the enormous positive learning experience they had of 'coming up under' one of the so-called legends of Indigenous policing. The current usefulness of such informal mentoring is limited by the fact that it leaves much up to chance. As a priority, the QPS needs to better institutionalise the use of the accumulated wisdom of its most experienced and respected officers in these communities.

219 Although the QPS refers to its training now as 'cultural appreciation' training rather than 'cultural awareness' training, it is not clear that this distinction is significant. In other comparable contexts, such as in the health field, international aid work and peace-keeping, the focus for some time has been on 'cultural competence' rather than 'awareness' or 'appreciation'. In addition to cultural 'awareness', the notion of cultural competence includes emphasis on the need for cultural 'knowledge', 'attitudes' and 'skills'. However, sometimes these terms are used interchangeably. We believe that the change that needs to be made in the QPS's approach to cultural training is not one that primarily involves a change in terminology.

Despite the paucity of evaluation evidence for the effectiveness of cultural training, given the importance of relations and the large role that good communication can play in developing stronger relations, cultural training should certainly continue to be developed and improved in Queensland. We also need an improved focus on learning about what works. The issues related to cultural training are not unique to police, and such an effort to develop and improving our understanding of the effectiveness of cultural training is a major task that should be a Queensland Government–wide endeavour.

Cultural training should be provided not just to all recruits, those who volunteer for it and those serving in Indigenous communities. Given the proportion of Indigenous people against whom police action is taken in Queensland (see Chapter 4), it should be broadly implemented across the service. In particular, staff in the QPS communications centres who receive calls diverted from Queensland's Indigenous communities should receive such training.

Other organisational support

The need for a focused recruitment program or unit

We heard during our consultations that QPS human resources assistance in filling vacancies is limited to advertising vacancies and providing support during the selection and appointment process. The human resources assistance currently provided does not extend to any active 'recruitment' of officers to help fill vacancies. (Hence some officers described spending a lot of their time ringing around in an attempt to recruit officers.) Several officers said that a 'proper' recruiting program to identify suitable candidates within the QPS and encourage them to apply for positions in Queensland's Indigenous communities would be helpful.

We are aware that the NT Police, for example, have an 'internal recruiting unit' devoted to recruiting staff for Indigenous communities. This unit identifies suitable candidates, and promotes locations and opportunities. Though the NT Police still have difficulties in filling positions, such an initiative in Queensland has potential to assist and would at least relieve the District Officers and some OICs of a great deal of the work they do in this regard.

It is our view that, despite the considerable efforts of some individual officers, the current level of support provided by the QPS to the area of recruitment for Indigenous communities is not adequate. Establishing an internal recruitment unit or program focused on identifying suitable officers and recruiting them to Indigenous communities could assist.

The Cultural Advisory Unit

The Cultural Advisory Unit (CAU) was established within the QPS after the Royal Commission to provide for a statewide coordination of programs, policy and procedures relating to Indigenous and cultural diversity issues. The unit also provides advice to members of the service and the community on Aboriginal, Torres Strait Islander and cultural diversity matters. The unit similarly provides advice regarding other ethnic and cultural groups.

The CAU is located within the Office of the Commissioner and is staffed by a mix of police officers and staff members, including Indigenous staff.

The CAU was the subject of a review by the QPS in 2008. The unit's effectiveness has been limited by:

- its lack of travel budget; officers from the CAU are based in Brisbane and have been largely unable to visit the Cape, the Gulf or the Torres Strait Islands (a senior officer in Cairns asked us 'who are they?' to make the point that the CAU had rarely visited)
- its lack of a strong operational role, other than providing training and support for PLOs; this lack of any strong operational focus has been said by some to have weakened the potency of its strategic advice.

It is our view that, though some similar issues may arise in policing other cultural groups, the issues involved in Indigenous policing are unique. The high crime rates in Queensland's Indigenous communities, the degree of Indigenous overrepresentation in the criminal justice system and the difficult history of relations between Indigenous people and police all convincingly point to the need for a well-resourced support branch within the QPS, focused entirely on Indigenous issues and not those of other cultural groups.

It is also our view that a new Indigenous policing support branch should be devised, one with the capacity to have operational influence on the ground in addition to providing whole-of-service policy and training advice.

Summary and conclusions: QPS must step up its efforts

In previous chapters we have concluded that the size of the crime problem is a key factor contributing to the tension that exists between police and Indigenous people, and that the most effective way to improve relations is to reduce the level of crime in these communities. Crime prevention therefore must become the priority — policing in Queensland's Indigenous communities should be more about crime prevention and less about pure 'law enforcement'.

The focus on crime prevention has a number of implications for the QPS:

- it requires a particular style of community policing that is grounded in problem-solving and partnerships
- the success of this style of policing depends on having the right people in policing jobs in these communities
- this raises issues of officers' recruitment into, retention in and repatriation out of Queensland's Indigenous communities, the need for specialised training, and the need for appropriate recognition and value to be placed on service within these communities.

In this chapter we have considered the substantial and ongoing recruitment and retention difficulties faced by the QPS in relation to getting the right officers to serve in Queensland's Indigenous communities.

It was very clear to our inquiry that the development of personal relationships with police officers is highly valued in these communities — people strongly believe that this is essential for developing trust and confidence in police. The practice of six-monthly rotations, for example, does not allow communities time to get to know their officers, and does not allow those officers to become part of community life (see Chapter 9); therefore it should be seen only as a short-term solution to problems of recruitment and retention.

At the same time, the QPS is required to balance the fact that, for most officers, working in any particular community long term or even making a career working in a number of them (without intervening periods served elsewhere) is not feasible, and for many communities it may not be ideal in terms of ensuring that high-quality policing services are provided. For many officers, a period of service in these communities of between 18 months and three years, with short breaks, may provide the ideal balance between being there long enough to build relationships and skills that really allow them to make a positive contribution to policing, and other factors working against longer terms of service.

➡ Action

The practice of six-monthly rotations should be seen by the QPS as a short-term stop-gap solution to recruitment and retention problems. A longer-term package of strategies must be developed that will better meet the expectations of communities that officers stay long enough for them to get to know them and to be able to make a valuable contribution to policing of the community.

In order to determine what action the QPS might take to improve matters in relation to the recruitment and retention of officers in Queensland's Indigenous communities, we have considered the three key areas of QPS support to officers in these areas:

1. Incentives provided to encourage officers to serve in Queensland's Indigenous communities (including financial incentives and accommodation)
2. Cultural training for QPS staff, especially those in operational roles in these communities
3. Other organisational support, including QPS human resources assistance and the Cultural Advisory Unit.

What has concerned us most is that, despite the QPS efforts in these areas, there appears to be a strong and continuing perception that, within the QPS, service in Queensland's Indigenous communities is not 'valued' as it should be.

Incentives

In considering incentives, it appears that the increased financial incentives and the upgrading of many OIC positions in these communities to the rank of Senior Sergeant have generally helped to alleviate recruitment and retention difficulties faced in these locations.

The lack of suitable accommodation continues to be a disincentive to officers working in some communities. For example, the problems for the QPS at Woorabinda are particularly acute and the problems at Palm Island also need rectification.

➡ Action

That the Queensland Government continue to give high priority to the improvement of QPS accommodation in Queensland's Indigenous communities. In particular, the ongoing problems at Woorabinda must be immediately resolved.

➡ Action

That the QPS review the need for security compounds with a view to removing, wherever possible, high barbed-wire fencing and replacing it with other less intrusive security measures, so as to reduce the perception of police officers being isolated, defensive and unengaged with the community.

Cultural training

Cultural training must be compulsory for all officers serving in Queensland's Indigenous communities. The community-specific induction packages that have been implemented by the QPS since the death of Mulrunji should be only the first step in an ongoing education process.

There are a number of strategies that the QPS must develop to provide a focus on the continued development of cultural competence for its officers serving in these communities. These strategies will need to vary from community to community as there is no 'one size fits all' approach. Both communities and local police must have a say in what is the appropriate formulation of ongoing cultural training for police in any given local context.

➡ Action

Cultural training must be compulsory for all officers serving in Queensland's Indigenous communities. The development of cultural competency should be seen as a key ongoing professional development priority of officers working in Queensland's Indigenous communities, particularly for those who may wish to pursue a specialist interest in this area. Strategies to provide this ongoing support may need to be developed on a community-by-community basis, working with the community concerned and the local police.

Although we believe that the QPS must support ongoing cultural training for those policing in Queensland's Indigenous communities, we also agree with the view expressed by many officers that the best learning is not provided through workshops or written materials, but rather it happens on the job, usually with the benefit of learning from an experienced OIC. It is this kind of cultural training that we want to see the QPS devise strategies to support and promote. In particular, we are keen to see the QPS institutionally capture the knowledge and experience of those who have successfully worked in these communities. For example, the QPS could:

- convene regular opportunities, say on an annual basis, for officers working in Indigenous communities across Queensland to be brought together to exchange ideas about the challenges they face and the possible solutions
- formalise a mentoring program for officers, involving some of the 'legends' and other experienced, well-regarded officers.

In some communities, mentoring by an experienced officer from outside may not be necessary as there may be a serving OIC with the necessary local experience. In other communities, however, there may be an officer now based elsewhere who has extensive experience that can be drawn on.

It will be most important to have such strategies in place, especially for those serving as OICs in these communities for the first time. In such a situation an experienced OIC might act as mentor and for a period could provide a fortnightly telephone debriefing session for the officer; the mentoring officer might also visit that officer on several occasions in their first six months of service and 'ride along' with the officer while they perform their duties, to provide feedback and advice.

A mentoring scheme could also involve local community members as mentors. Nominated local people could be identified as persons with whom an officer is to have regular conversations about policing and community issues, providing an opportunity for the officer to learn as the relationship develops. In some communities there may be a single community person who could act as a mentor to police officers (this person may be a PLO, a councillor, a community justice group member or another person), while in other communities it may be necessary to have a small number of people.

➡ Action

The QPS should implement strategies to support the development of policing Indigenous communities as an area of policing requiring some special knowledge and skills, including by:

- **convening an annual conference or workshop for officers interested in policing Indigenous communities**
- **implementing a mentoring program for those police developing special expertise in policing Indigenous communities (especially those serving for the first time as OICs), involving some of the 'legends' or well-respected police officers with experience working in Queensland's Indigenous communities**
- **encouraging local community members to be involved in mentoring police officers in each community.**

Although the strategies we have outlined above have the potential to enhance the induction program for officers newly arrived in an Indigenous community, we also believe that the induction of new officers should include a minimum requirement that all officers are introduced to key members of the community, including members of the local council. In addition, it would be beneficial if some communities trialled and evaluated a program of door-to-door introductions of new officers as part of their local induction process, as there is some research evidence suggesting that such a strategy may have a crime prevention effect (see Chapter 9 for a further description of this evidence for the crime prevention effectiveness of such a strategy).

➡ Action

That the QPS introduce:

- as a minimum requirement, that part of the induction of all new officers to a community must include an introduction to key members of the community, including members of the local council and the community justice group
- in some communities, a trial of door-to-door introductions of new officers as part of the community's local induction process.

The community has supporting obligations in this regard. Where a request has not already been made by police for introductions of new officers, local councils and community justice groups must extend an invitation to police to come and introduce themselves. Where they exist, local community members acting as mentors could facilitate introductions to key members of the community.

The QPS has conducted little, if any, rigorous evaluation of its cultural training programs. Nor have individual officers been encouraged to focus on the development of their own cultural competence through the development of assessment criteria. It may be that the QPS could use the expertise of officers who have worked effectively in Queensland's Indigenous communities, and others,[220] to assist in the development of such tools for its officers and the organisation.

➡ Action

Given that there is very little known about what is effective in cultural training, and the importance of the issue, it is our view that future QPS efforts in this regard should be rigorously evaluated. However, building our understanding of the effectiveness of cultural training is a major task that should not be left to the QPS alone but should be a Queensland Government-wide endeavour.

As part of such a project, the assessment of officers on the development of their cultural competence should be considered. In the meantime, minimum assessment criteria could be developed, including measures such as if the officer has:

1. Established a good working relationship with the local Indigenous people in policing roles (such as PLOs)
2. Met and established working relationships with the local council
3. Acquired some understanding of who the key people are to talk to in relation to matters affecting particular families.

220 Such as Dr Tracey Westerman, who has developed and implemented cultural competence assessment tools for some police officers, psychologists and mental health workers working in Indigenous communities in other jurisdictions.

Assessment measures applied to officers' performance in this regard must be subject to an overarching 'reasonableness' criteria. For example, relations with a council may be very hostile because police have taken action in relation to fraud, corruption or abuse of power; in such circumstances it could not reasonably be expected that officers would have 'established working relationships'.

Other organisational support

It is our view that the QPS human resources support provided to OICs and their District Officers could be improved — in particular, by establishing an internal recruitment unit or program that is focused on identifying suitable officers and recruiting them to Indigenous communities.

➡ Action

That the QPS establish an internal selection unit or program focused on recruiting officers suitable to work in Queensland's Indigenous communities and providing assistance to resettle them there.

It is our view that the QPS needs a dedicated strategic and operational focus on policing Indigenous communities in order to ensure that officers who work in Queensland's Indigenous communities are appropriately valued and supported for this service; we believe that this, in turn, can help to achieve greater success in this area of policing.

We have outlined a number of reasons for our view that the current QPS structure which provides internal support to the area of Indigenous policing — the Cultural Advisory Unit — is currently unable to perform this role adequately (despite the undisputed dedication of individual officers within the CAU). We recommend that a new structure should be created within the QPS to provide support to Indigenous policing and that this new structure should replace that part of the CAU which currently provides services in relation to Indigenous policing.

We believe that the creation of this new structure will send a clear message that the QPS values and supports the role of police in Indigenous communities, and that the new structure can also facilitate the development and sharing of specialist 'know-how': the knowledge, experience, skills and networks that enable officers to operate effectively. In order to flesh out the details of this recommendation and provide details of the role of this new structure, we draw not only on reasons set out in this chapter, but also on those set out elsewhere in this report. For that reason the following chapter provides discussion and further details of this proposed new QPS structure.

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A NEW QPS STRUCTURE: THE INDIGENOUS POLICING PARTNERSHIP COMMAND

Throughout Part 2 we have suggested numerous improvements to QPS practices, policies and procedures that are designed to improve relations between police and Queensland's Indigenous communities. It is our conclusion that the size of the crime problem is a key factor contributing to the tension that exists between police and Indigenous people, and the most effective way to improve relations in the long term is to reduce the level of crime in these communities.

The QPS already makes substantial efforts in terms of improving relations and crime prevention in many of Queensland's Indigenous communities. It is our view, however, that these efforts must be improved — both internal problems within the QPS and significant external challenges must be addressed if we are to see the improvements that we suggest realised.

Taken together, the improvements we suggest indicate that a substantial change must occur in the approach to policing Queensland's Indigenous communities — and it is our belief that different structural arrangements within the QPS are needed to underpin the work that must be done to achieve this substantial change. We recommend the creation of an Indigenous Policing Partnership Command (IPPC), led by an officer of the rank of Assistant Commissioner. In this chapter we explain the rationale for recommending such a major structural change within the QPS, drawing together many of the factors that we have highlighted throughout the report so far.

What internal and external challenges must be faced by the QPS to achieve a new approach to policing Queensland's Indigenous communities?

The size of the problems — both internal and external to the QPS — to be overcome if we hope to be effective in improving policing of Queensland's Indigenous communities should not be underestimated.

The problems external to the QPS are those described in Part 1 of this report, relating to the size of the crime problem in Queensland's Indigenous communities and the great difficulty in achieving the degree of joint action with communities and across government (or governments) necessary for an effective response. We provide further discussion of these challenges in achieving a coordinated response to crime prevention and criminal justice matters in Part 4, but certainly one of these challenges is to closely align the QPS within the broader state government and Australian Government strategic approaches to improving life in Queensland's Indigenous communities (such as the *Closing the Gap* initiative).

The problems internal to the QPS we have canvassed throughout Part 2 of this report in considering how to improve community relations with police. We have stated that improving the policing of Queensland's Indigenous communities must involve the QPS:

- sending a clear and constant message to Indigenous communities and its officers that it takes the priority of improving relations seriously
- greatly increasing and improving the focus on effective crime prevention
- providing more policing in a way that is unlikely to increase tensions, damage relations and even lead to more crime, but rather will increase trust and confidence in police and reduce crime

- revisiting important aspects of community policing
- promoting problem-solving and partnership approaches to policing as a central driving philosophy for effective policing in Queensland's Indigenous communities
- committing to having local Indigenous people properly trained and supported within a new model, to be involved in policing their own communities
- providing greater support for recruitment to, retention in and repatriation out of Queensland's Indigenous communities
- supporting the ongoing development of officers' cultural competence
- valuing service in these communities more fully.

Bringing about the degree of change we see as being necessary to meet these internal and external challenges will require considerable effort at various levels within the QPS: in local communities, within the QPS regions, within Headquarters and across the service as a whole. Resources will also be needed to support the changes that must occur. However, we urge that a longer-term vision be taken to the resourcing issue, as there can be no doubt that achieving effective crime prevention in Queensland's Indigenous communities will lead to savings in the future.[221]

It is our view that the scale of the challenges to be faced by the QPS in Indigenous policing in general, and the policing of Queensland's Indigenous communities in particular, is such that a well-resourced support branch within the QPS, dedicated to Indigenous issues alone and led by an officer of the highest possible rank, is necessary.

The proposed Indigenous Policing Partnership Command (IPPC)

The IPPC will play the key role in ensuring that policing services of the appropriate style are provided to Queensland's Indigenous communities in particular, but also in Indigenous policing in general throughout the state. It will also provide the dedicated high-level leadership that we believe is necessary to bring about a substantial change and play a key role in attracting and supporting officers to serve in Queensland's Indigenous communities, including by developing the skills needed for success in this area.

The policing style

We have described how, to a large degree, the policing style employed in Queensland's Indigenous communities at the moment depends on the personal attributes and approach of individual officers, particularly the OIC in any location. Though we did find examples of OICs who were focused on crime prevention and using problem-solving approaches, we also found that there were OICs who saw their role far more narrowly, as being focused exclusively on law enforcement.

A key role of the IPPC must be to drive changes within the QPS to ensure that the policing style and philosophy that are central to all Queensland's Indigenous communities are characterised by:

- a core focus on crime prevention
- problem identification and solving, and evaluation
- partnerships — with other government and non-government agencies, and with the community

221 Although we cannot put a dollar amount on the QPS investment in this area, there is no doubt that a substantial proportion of police time, effort and other resources is devoted to issues relating to policing Queensland's Indigenous communities (for example, consider the police resources and other government resources devoted to the as-yet-unresolved Mulrunji case), and also to Indigenous policing issues in general. We believe that our recommendations have the potential to enhance the efficiency and effectiveness of the use of QPS resources devoted to Indigenous policing.

- a return to some of the lessons that can be learnt from community policing
- creativity, flexibility and adaptability to the specific features of each community
- building community capacity.

The IPPC will be able to provide specialised support services to improve the implementation of this style of policing across all Queensland's Indigenous communities (including research, policy and evaluation specialists, along with operational specialists). The IPPC will need to build strong relationships with regional and operational staff in order to be able to provide timely, well-founded advice and assistance and facilitate knowledge sharing for police working across these communities; this two-way flow of information will contribute to building a repository of 'best-practice' knowledge and experience to disseminate across the QPS. In this way the IPPC will provide a whole-of-service policy and advisory role.

The IPPC will be able to play a key role in assisting OICs and ATSIS in the development of the crime prevention and criminal justice (including policing) component of the Local Implementation Plans. The IPPC should also be responsible for ensuring appropriate linkages between these plans and the QPS regional action plans falling under the QPS Aboriginal and Torres Strait Islander Strategic Direction.

Dedicated high-level leadership

It is our view that having an Assistant Commissioner heading the IPPC can provide the dedicated high-level leadership that is necessary to bring about the improvements we recommend for the policing of Indigenous communities. Having such a command will provide greater recognition that policing Indigenous communities is a key area of responsibility for the QPS, and that Indigenous policing must respond differently to the unique history, experience and needs of Indigenous people and communities.

At the moment, responsibility for policing Indigenous communities ultimately rests with the Commissioner of Police, the two Deputy Commissioners and the Assistant Commissioner of each QPS region in which there are Indigenous communities (that is, with the Assistant Commissioners of four QPS regions). Although there are sound reasons for the existence of this strong regional structure and chain of command — for example, it provides a clear line of responsibility within a geographical region for all officers delivering operational policing services — it also has some disadvantages.

For example, this model means that responsibility for improving policing outcomes in Queensland's Indigenous communities is diffused rather than concentrated.

On one hand, while it could be said that the Assistant Commissioners are responsible for improving policing outcomes for those communities within their region, no single Assistant Commissioner is responsible, for example, for tackling problems commonly arising across Indigenous communities in different regions, or for sharing knowledge across the regions about innovations or successes in one region that might be able to be adapted for communities in another.[222] Indeed, in some senses it could be argued that operational policing services to Queensland's Indigenous communities are delivered by eight regional police services across Queensland, rather than by a single service.

On the other hand, although the Commissioner of Police and the Deputy Commissioner, Regional Operations could be said to be ultimately responsible for policing outcomes in all Indigenous communities and for ensuring that any whole-of-service issues arising are addressed, Indigenous policing matters compete for their attention along with an enormous range of other matters, and the potency of the leadership that they can provide is therefore diluted.

222 This role may fall to the Commissioner or the Deputy Commissioner of the regions, as they may pick up issues that affect more than one region — for example, through the Operational Performance Review processes that are regularly conducted for each region.

The current structure of the QPS also limits the ability of the highest-ranking officers to directly engage with Queensland's Indigenous communities and support operational police. We have described in Chapter 7 how the Commissioner of Police makes regular visits to only a small number of Indigenous communities and that he does this as part of his role as a Queensland Government Champion for particular communities. Although the limited number of visits is perhaps understandable given the demands of the role and the large number of communities, it remains the case that high-level visits from the QPS to Queensland's Indigenous communities are otherwise rare.[223] Given the high level of crime, disorder and policing problems being faced in Queensland's Indigenous communities, it is our view that an increased level of engagement at the local level from the highest levels of the QPS is warranted — both to engage with the community and to support operational police.

It is our view that having an Assistant Commissioner heading this command will provide:

- increased capacity for very senior-level officers of the QPS to be seen in these communities, engaging directly with the Indigenous people and local-level service providers
- designated ownership of the 'problem' within the QPS and clear responsibility for improving outcomes
- high-level attention within the QPS devoted exclusively to the issues associated with Indigenous policing, including in Queensland's Indigenous communities
- high-level leadership and a 'seat at the table' in the QPS Executive; this means, for example, that the Assistant Commissioner of the IPPC can provide a focus on Indigenous issues at the Assistant Commissioners meetings and the Senior Executive Conference.

The Operational Performance Review (OPR) process will be one key mechanism through which the IPPC achieves accountability for delivering policing services in the style outlined, and for the sharing of specialist 'know-how' across regions. The IPPC will need to work with the OPR unit to ensure that each of the regional OPRs that are regularly conducted provide consideration of Indigenous policing issues, including in relation to any Indigenous communities within the region. A themed OPR should also be conducted annually on policing Indigenous communities; this should be an important event (along with the annual conference recommended in Chapter 11) for ensuring accountability for delivery of policing services in Queensland's Indigenous communities in the style we have described, and also for facilitating the sharing of knowledge across QPS regions.

Attracting and supporting officers

In order to attract and retain the right officers to work in Queensland's Indigenous communities, the IPPC will work with QPS human resources, the regions, the police academy and local police in the communities to develop a program that encourages service-wide discussion of the challenges and the possible benefits of working within Queensland's Indigenous communities. For example, OICs or other officers experienced in these communities could take part in a program of visits to the police academy, and/or to stations in regional headquarters, to talk about their experiences. Such discussions could aim to highlight that policing in Indigenous communities can provide an opportunity to:

- experience living in an Indigenous community and gain an understanding of Indigenous society unavailable to most other Australians
- focus on and be creative in the areas of crime prevention, problem-solving and partnerships
- play a key role in partnering across governments and with other agencies, and in this way develop, to a greater degree than is usual for a police officer, skills in cross-agency coordination and liaison and perhaps even policy development and implementation

223 We have previously noted in Chapter 7 that the Assistant Commissioner for the Far Northern QPS Region has also recently been appointed as Queensland Government Champion for Wujal Wujal, and we are aware from consultations that he has made an effort to spend time on a number of occasions in other communities in his region.

- develop 'good policing' skills and enhanced qualifications that would be valuable for policing carried out anywhere else in Queensland, or in other jurisdictions (including federally and even internationally in places such as the Solomon Islands and East Timor)
- enjoy the fishing, camping and four-wheel-driving opportunities in many of these locations.

In addition to attracting officers to work in Queensland's Indigenous communities, the IPPC will be responsible for developing strategies to deal with the problems we have discussed in Chapter 11 regarding the repatriation of officers once their period of service in an Indigenous community has come to an end, and also periods of staffing transitions in these communities, particularly with respect to OICs.

The IPPC will also be responsible for improving the level of support and ongoing cultural training for Indigenous policing, including by:

- organising annual forums for the OICs and other officers involved in policing Queensland's Indigenous communities, so that they can meet, discuss issues and resolve problems
- developing mentoring programs and other ways of supporting development of cultural competence in an ongoing way
- managing the programs through which local Indigenous people play a role in policing their own communities.

Partnering in whole-of-government approaches

We have outlined in Part 1 of this report the considerable effort at both the state and federal levels devoted to overcoming problems of Indigenous disadvantage, including problems relating to violence and the overrepresentation of Indigenous people in the criminal justice system. The creation of a dedicated IPPC led by an Assistant Commissioner recognises the key role that the QPS can play, in partnership with communities and other agencies, in facilitating solutions to community problems. We believe that the police potentially have more to offer in this respect than is currently expected of them. There are several reasons for this, including that:

- the QPS has a relatively stable on-the-ground presence of a large number of officers in many of these communities; in a large number of communities the police have a more sizeable on-the-ground presence than any other agency
- the police have a real stake in resolving community problems, as these problems are otherwise likely to arrive 'on their doorstep' for law enforcement resolution.

The role of the IPPC will include actively developing networks, identifying opportunities for partnerships and helping to seek funding for projects and programs in line with a strategic focus on crime prevention.

Currently, there is no single point of contact within the QPS, other than the Commissioner of Police, with responsibility for dealing with Indigenous policing matters. It is our view that the creation of an Assistant Commissioner responsible for the IPPC will be of great importance in assisting current efforts to provide a whole-of-government coordinated response to problems of Indigenous disadvantage. The new Assistant Commissioner will be well placed to act as:

- the central point for across-government and cross-government partnerships and liaison with police, including a key role as a partner of ATSIS (formerly the Government Coordination Office) (see Part 4 for further discussion)
- a champion for Indigenous issues across the police service and across government(s).

For example, we envisage that the Assistant Commissioner of the IPPC will attend the Negotiation Table meetings (which provide the main site of interaction with each individual community regarding its partnership with governments) with the relevant regional Assistant Commissioner. In this way the Assistant Commissioner of the IPPC can ensure that issues emerging in any region can be linked with whole-of-service and whole-of-government strategies and initiatives, but also that, where issues are emerging in a number of regions, an appropriate response can be coordinated across the police service and government(s).

We have already stated that the task of achieving joint action to deal with problems of Indigenous disadvantage is not easy. The IPPC can ensure that the QPS is effectively linked into partnerships at multiple levels, including:

- at the local level and the regional level — for example, between OICs, District Officers and existing mechanisms for coordination such as the Regional Managers Coordination Network[224]
- at the highest levels of government.

Developing the IPPC further

There are many complex matters that will need to be carefully thought through in developing the IPPC, including development of the staffing model for the command. We acknowledge that operationalising the model we have described above will necessitate detailed development and costing, as the QPS is a large and complex organisation, and the tasks to be performed by the command are also complex and challenging.

For example, we recognise that the IPPC will need to develop and maintain close links with the QPS regions in order to assist them to develop policing strategies for each community that focus on problem-solving and partnerships. As well, the IPPC will need to establish close working links with the regions to share knowledge across the service and to inform its policy, training and advisory role. Positive and productive relationships with the regions will also be essential for developing a positive view of the IPPC and for facilitating the transfer or promotion of people into and out of the IPPC.

We are also aware that competing demands exist in terms of where the IPPC should be located within the QPS. We are conscious of the need to provide a strong regional presence to facilitate the cross-fertilisation between the operational policing and the research, policy, strategic and advisory roles of the IPPC. We are also conscious of the need to overcome a perception that the IPPC will become Brisbane-centric and thus removed from, and possibly irrelevant to, the reality of policing Indigenous communities. These considerations would suggest that the command be located in a city such as Cairns or Townsville, which are the centres of the regions with the greatest number of Indigenous communities.

However, we are also conscious of the important role that the IPPC will play in a whole-of-service and whole-of-government sense. To play a serious role in driving the changes across the service, the Assistant Commissioner needs to have access to the centre of power in the QPS, which is in Brisbane. Similarly, in order to build the partnership with ATSIS, the Assistant Commissioner will need to work closely with the Deputy Director-General, Department of Communities, who heads ATSIS (the Department of Communities now also includes Sport and Recreation Services and Child Safety Services), and with the Directors-General of the other service delivery agencies (particularly the Departments of Education, Health, Community Safety (Corrections and Justice). These people are all located in Brisbane.

On balance, it is our view that the IPPC should be located in Brisbane to assist in driving the whole-of-government and whole-of-service processes, but that it be sufficiently resourced to allow the Assistant Commissioner and other senior staff to travel regularly to the regions (including, at the invitation of the regions, travelling to the Indigenous communities).

224 This is a regular meeting of Regional Managers from a range of state government organisations to deal with cross-agency matters in each region.

The QPS is itself best placed to develop the detailed blueprint for the operation of the IPPC. We suggest that an Acting Assistant Commissioner be appointed to work closely with the Police Commissioner and with the Deputy Director-General, ATSIS (see the further discussion in Part 4) to develop the model.[225] The CMC will be happy to provide assistance during this period.

Summary and conclusions: high-level QPS leadership to drive the change in policing Indigenous communities

In this chapter we have argued that a new Indigenous Policing Partnership Command should be created within the QPS. This new structure should not be seen as an end in itself — rather we see that it must drive the large amount of change that would result from implementation of the actions we have identified throughout Part 2 to improve relations in, and improve the policing of, Queensland's Indigenous communities. As a package, these suggestions for change require a major amount of work to be undertaken within the QPS and it is our belief that a dedicated command, led by an Assistant Commissioner, would provide the level of leadership necessary to achieve the changes needed.

Such a command would be well positioned to tackle the range of internal issues that must be addressed within the QPS to improve Indigenous policing. Such issues include those relating to attracting and supporting staff to work in these communities. We believe that it would also allow the QPS to better position itself to contribute to, and take advantage of, current whole-of-government efforts to overcome Indigenous disadvantage in Queensland. Most importantly, we believe that through a variety of mechanisms the IPPC would be able to influence and develop the implementation of a style of policing in Queensland's Indigenous communities that is more heavily focused on:

- maximising the crime prevention outcomes of policing work
- problem identification and solving, and evaluation
- partnering (including with the community and in order to build community capacity).

Although there will be costs involved in the restructuring needed for the creation of the IPPC, and in the implementation of the other actions included in Part 2, which aim to improve relations with police in Queensland's Indigenous communities, there can be no doubt that efforts that are effective in reducing the size of the crime problem in these communities will in the long term result in large savings — in both financial and human terms.

➡ Action

That the QPS create a new structure dedicated to the issues relating to Indigenous policing. This new structure, the Indigenous Policing Partnership Command, is to be led by a person at the rank of Assistant Commissioner. Its role will be to address the issues we have identified throughout this report — both those internal to the QPS and those that are external and relate to the need for whole-of-government action to improve Indigenous outcomes. The development and operational detail of the command should be undertaken by the QPS, with assistance from the CMC as required, as discussed above.

225 This is similar to the approach that was taken to the QPRIME project within the QPS. It is also in line with the recent decision to create a dedicated high-level position within the Department of Education, an Assistant Director-General, Indigenous Education and Training, to focus on achieving the targets set under the Closing the Gap initiative.

Part 3:
Detention in police custody

This part of the report responds to the second term of reference and deals with issues relating to the detention of people in police custody in Queensland's Indigenous communities. We were required to consider 'current practices relating to detention in police custody, including the monitoring of detainees in watch-houses and other police facilities' in Queensland's Indigenous communities and 'the possible involvement of community justice groups or other civilians in the monitoring of detainees' (see Chapter 1 for further details).[226]

This second term of reference regarding detention in police custody has a close connection with our first term of reference, in that detention issues have a powerful impact on relations. Indeed, the detention of Indigenous people in police custody is very much an emblematic issue in Indigenous affairs in Australia.

The Royal Commission into Aboriginal Deaths in Custody, for example, noted that the arrest and detention of Aboriginal people, particularly for minor behaviour such as drunkenness, was a 'constant irritation' and a 'daily exacerbation' of police and Aboriginal relations (Johnston 1991, vol. 3, p. 25). Our inquiry came about primarily because of two incidents related to police custody and their consequences:

1. The death of Mulrunji and subsequent riots on Palm Island
2. The riot at Aurukun after, not a death, but the detention of a man in police custody and allegations of police assault (see Chapter 1 for further details of these events).

Because of the serious responsibility that comes with deprivation of someone's liberty, and the particular history and emotion surrounding detention in police custody, the careful management of such detention is absolutely vital to maintaining public confidence in the QPS, especially for Indigenous Queenslanders. Careful management of detention in police custody is also vital for police officers — for example, in order to manage the risk of false allegations being made against them.

In considering detention-related issues in this part, we have relied heavily on data we obtained from the QPS from a sample of four watch-house custody registers, those of the Western Cape York communities of Aurukun, Pormpuraaw, Kowanyama and Weipa (see Chapter 1 for a further description of the Western Cape York watch-house custody register data).

226 The inquiry's focus has been on watch-house issues but it must be acknowledged that detention in police custody may involve other custodial settings, such as police vehicles.

Chapter 13 examines the patterns of detention in police watch-house custody, including the numbers of people detained, the types of offences that lead to watch-house detention and the lengths of time people are usually held. We also consider the patterns for juveniles, for whom police have the strongest obligations to limit watch-house detention. We conclude by suggesting that there is not endless scope for police to limit the use of detention. In general, it appears that police are limiting the detention of people in watch-houses in the Indigenous communities considered, perhaps close to as much as is possible.

Chapter 14 deals with the health, safety and supervision of people in watch-houses. It provides by way of background a brief overview of Indigenous deaths in custody since the Royal Commission. It then considers issues relating to watch-house facilities, the care of detainees by police, and community involvement in watch-houses in Queensland's Indigenous communities.

13

PATTERNS OF DETENTION IN POLICE WATCH-HOUSE CUSTODY

People detained in police watch-house custody are generally people who are suspected to have committed an offence. Most commonly they are in the watch-house after they have been arrested by police. Since the time of the Royal Commission into Aboriginal Deaths in Custody, in particular, efforts have been made to reduce the risks associated with a person's detention in police custody and to reduce Indigenous overrepresentation in police watch-house custody by encouraging police to use alternatives to arrest and detention in the watch-house, and otherwise encouraging that watch-house detention be limited whenever possible.

This chapter describes the patterns of detention in police watch-house custody in Queensland's Indigenous communities. We draw heavily on the data we extracted from the watch-house registers of four Western Cape York watch-houses — Aurukun, Kowanyama, Pormpuraaw and Weipa — to consider the following key questions:

- **how frequently are Indigenous offenders admitted to the watch-houses?**
- **what offence types are they detained for?**
- **what are the patterns of watch-house detention for juveniles?**
- **how long do detainees stay in these watch-houses?**

Determining the patterns of watch-house detention in this chapter serves the following two purposes:

1. **It allows us to consider whether the patterns of detention in police custody are different from those described in the Royal Commission into Aboriginal Deaths in Custody, and, if so, what implications this has for policy and practice.**
2. **It provides an indication of the workload of watch-houses in Queensland's Indigenous communities that we can draw on in our later discussion of supervision and monitoring and the potential to involve community members in such roles (see Chapter 14).**

Before we consider the data on the patterns of detention in police watch-house custody in Queensland's Indigenous communities, we must provide some background information:

- **about the findings and impact of the Royal Commission regarding the detention of Indigenous people in police watch-house custody**
- **to explain how police are now able to detain a person in the watch-house and the mechanisms that exist to encourage police to limit watch-house detention wherever possible (including alternatives to arrest and diversionary mechanisms).**

The Royal Commission on watch-house custody

The Royal Commission highlighted the overrepresentation of Indigenous people in police custody. The data collected by the Royal Commission showed that in 1988, Aboriginal people were placed in police cells at over 20 times the rate of non-Aboriginal people, and that Queensland had one of the highest rates of police custody for Indigenous people (McDonald 1992, pp. 307–8). In addition, the Royal Commission found that in some cases people were held in watch-house custody for very long periods — up to 31 days (Johnston 1991, vol. 3, p. 233).

The Royal Commission identified public drunkenness as the single most significant factor contributing to the detention of Aboriginal people in custody and it recommended that public drunkenness be decriminalised (Johnston 1991, vol. 3, p. 6). It also recommended a range of other measures to deal with the problem of drunkenness and to otherwise reduce Aboriginal overrepresentation in police watch-house custody. For example:

- arrest should only be used by police as a last resort
- a range of alternatives to police intervention and detention should be provided
- police must increase the use of cautioning
- police must increase the release of people from police detention through police bail (Johnston 1991, vol. 3, p. 6).

Since the time of the Royal Commission, a range of strategies have been put in place in response to these recommendations and the Queensland Government considers that the recommendations have been largely implemented in this state (see QLA (Beattie) 2007a, p. 14; Queensland Government 2007a, 2007c; see also 2006c).[227]

Despite the strategies that have been put in place since the time of the Royal Commission, when the overrepresentation of Indigenous people in police custody is considered over time, data for Queensland do not show any consistent downward trend.[228]

- In 1988, 28.8 per cent of police custody incidents involved Indigenous people; compared with the non-Indigenous population, Indigenous people were 17.9 times more likely to be involved in a police custody incident.
- This rate decreased in 1992 (23.5%; 10.9 times more likely), increased in 1995 (32.3%; 17.6 times more likely), and then decreased in 2002 (24.4%; 10.5 times more likely) (Taylor & Bareja 2005, p. 24).[229]

Currently, how can police detain offenders in police watch-house custody?

Where people are in police watch-house custody, they are most commonly there after they have been arrested by police. People arrested by police are taken to the watch-house, where police can initiate formal criminal proceedings against them by charging them with an offence. Police have the power to arrest (without a warrant) where they reasonably suspect the person has committed or is committing an offence, and providing that it is reasonably necessary to arrest for specified reasons, such as:

- to prevent the continuation or repetition of the offence or the commission of another offence
- to establish a person's identity
- to prevent the person escaping
- to ensure the person appears before a court

227 Although, as described below, the recommendation that public drunkenness should be decriminalised (recommendation 79) was not accepted in Queensland. In addition, recommendations relating to increasing the use of police bail to release people from police custody have been said to require ongoing implementation (recommendations 89 & 91; see QLA (Beattie) 2007a, p. 14; Queensland Government 2007a).

228 The Australian Institute of Criminology (AIC) National Police Custody Survey, which has been conducted periodically since the Royal Commission, provides a census of people held in police watch-house custody throughout Australia as an annual one-month snapshot. The AIC National Police Custody Survey publishes only data aggregated at the state and national level. As with our watch-house data presented later in this part of the report, the AIC data count occasions when a person is physically lodged in a watch-house cell.

229 The variation over time may be an effect of sample size.

- to preserve the safety or welfare of any person
- because of the nature and seriousness of the offence (s. 365 of the *Police Powers and Responsibilities Act 2000*).

Although it is less common, people may be brought into watch-house custody after they are arrested with a warrant. This process does not occur on the spot at the point of the alleged offending but involves police preparing an application for approval by a magistrate or justice, and then serving it on the suspect. Arrest with a warrant will often occur in circumstances where a person has failed to appear in court or has breached an existing court order (ss. 369 & 389 of the *Police Powers and Responsibilities Act 2000*). As in the case of the more typical form of arrest described above (that is, arrest without a warrant), once police arrest an offender on a warrant that person is transported to a watch-house and formally charged.

People may also be in police watch-house custody for reasons other than arrest, including:

- to allow questioning in relation to offences under investigation (under s. 403 of the *Police Powers and Responsibilities Act 2000*) or to prevent domestic violence (under s. 69 of the *Domestic and Family Violence Protection Act 1989*)
- when offenders are in transit between court and other locations (these people are remanded or sentenced prisoners).

A range of mechanisms encourage police to limit watch-house detention

At many points in the process, mechanisms exist to encourage police to limit watch-house detention.

Alternatives to arrest

Police can limit the number of offenders taken into police watch-house custody by using alternatives to arrest and detention wherever possible. Although the Queensland Government considers that it has implemented the Royal Commission recommendation that arrest be used as a last resort (recommendation 87),[230] this principle is not explicitly stated in Queensland law or the QPS Operational Procedures Manual (OPM) (DICMU 2002, vol. 2, p. 419).[231] Rather, a range of law and policy initiatives introduced since the time of the Royal Commission aim to provide alternatives to arrest, especially for young people. In the case of juveniles, strong obligations are imposed on police by law to consider alternatives to arrest and detention.

Alternatives to arrest and detention, and police discretion to apply them, are broadest in relatively minor cases. In such cases, for example, police may decide not to commence any formal legal proceedings against the offender but to:

- take no action
- provide a verbal warning or informal caution on the spot without any legal repercussions.[232]

Although public drunkenness has not been decriminalised in Queensland (as was recommended by the Royal Commission),[233] the QPS OPM provides guidance to police limiting the exercise of their discretion in arresting persons for being drunk in a public place.

230 The Royal Commission recommendation was said to be implemented largely through the introduction of 'notices to appear' as an alternative method by which police may initiate proceedings against a person other than by arrest and detention in a watch-house.

231 Except in so far as Queensland's Charter of Juvenile Justice Principles contained in the *Juvenile Justice Act 1992* at Schedule 1 includes that 'a child should be detained in custody for an offence, whether on arrest or sentence, only as a last resort'. In contrast, the Northern Territory Police Custody Manual and General Orders explicitly state 'arrest of a person should be an action of last resort' (cited in HREOC 2006).

232 The QPS does not routinely collect data on how often police either take no action or issue a warning.

233 A number of submissions to the inquiry continued to call for the decriminalisation of public drunkenness in Queensland (JCU Law School, pp. 8, 29, 31; LAQ; ATSILS (Qld Sth), p. 9).

The OPM states: 'Officers should not arrest persons for being drunk in a public place, unless they consider that it is necessary to arrest the person to preserve the safety or welfare of any person, including the person arrested' (see OPM, Chapter 16 & 13.4.11). In addition, a statutory duty has been imposed on police to divert from custody persons arrested for being drunk in a public place where police are satisfied it is more appropriate that they be taken to a place of safety to recover (usually a relative's home) (see s. 10 of the *Summary Offences Act 2005*, s. 378 of the *Police Powers and Responsibilities Act 2000*).[234]

In the case of juvenile offenders, rather than commencing formal proceedings, unless a serious offence is involved, police must first consider whether in the circumstances it would be more appropriate to:

- take no action
- provide a formal caution[235]
- provide a direct referral to a youth justice conference[236]
- refer the child to a drug diversion assessment program (s. 379 of the *Police Powers and Responsibilities Act 2000* and s. 11 of the *Juvenile Justice Act 1992*).

Where police decide to commence formal legal proceedings against an offender, they are encouraged to do this wherever possible by a process that does not require that an offender be taken into police custody. For example, since 1998, notices to appear have been available to police in Queensland in order to limit the incidence of custody associated with arrest (s. 382 of the *Police Powers and Responsibilities Act 2000*). In some cases, police can also issue an infringement notice or a complaint and summons (s. 42 of the *Justices Act 1886*).[237]

Where formal proceedings are to be commenced against a juvenile, the law states that the preferred method for dealing with them, other than for a serious offence, is by way of notice to appear or complaint and summons (s. 12 of the *Juvenile Justice Act 1992*).

Diversion from custody

Even after a person has been arrested and taken into custody, the law continues to encourage police to divert offenders from police custody (and, in some cases, the criminal justice system), or to otherwise release them from custody. Again, there are strong obligations on police to consider discontinuing arrest and releasing juveniles.

In the appropriate circumstances, police are obliged to consider discontinuing arrest and releasing a person:

- For public drunkenness. In addition to the measures described above encouraging police to minimise the detention of people for drunkenness, police are also obliged to consider discontinuing arrest (see ss. 378 & 394 of the *Police Powers and Responsibilities Act 2000*).
- For minor drugs offences (such as the possession of a small amount of cannabis or an implement for smoking cannabis). In appropriate cases, the police must offer diversion to a 'drug assessment program' and, if this is agreed, discontinue arrest (see ss. 379 & 394 of the *Police Powers and Responsibilities Act 2000*).

234 In cases where the person is unwilling to go to or stay at a sobering centre or a place of safety, police are unable to compel them and in such situations police may decide they have no alternative other than arrest and watch-house detention. Also, it should not be assumed that diversion to a sobering-up centre or another place of safety is necessarily a safer option than taking someone into police custody. We are aware of one Indigenous death occurring in 2007 at a diversionary centre for people affected by alcohol after the man was taken there by Queensland police (QPS 2007b).

235 The officer verbally warns the person and a written record is made of the warning (s. 15 of the *Juvenile Justice Act 1992*.

236 A youth justice conference is a form of victim–offender mediation based on the principles of restorative justice (see ss. 22 & 23 of the *Juvenile Justice Act 1992*).

237 Although it should be noted that people may be first arrested and detained in the watch-house and then issued with a notice to appear or an infringement notice (s. 378 of the *Police Powers and Responsibilities Act 2000*).

- Where the reason for arresting an adult no longer exists, or is unlikely to happen again if the person is released (as where the person's identity is confirmed or they are unlikely to continue the offending). In appropriate cases, police have a duty to release a person if it is more appropriate to proceed by issuing a notice to appear in court, or a summons or infringement notice (s. 377 of the *Police Powers and Responsibilities Act 2000*; see also s. 7 of the *Bail Act 1980*).
- Where the reason for arresting a juvenile no longer exists, or is unlikely to happen again if the person is released. In appropriate cases, police have a duty to consider whether to discontinue arrest and release the child if in the circumstances it would be appropriate to take no action, caution them, refer them to a youth justice conference, or issue a notice to appear or summons (s. 380 of the P*olice Powers and Responsibilities Act 2000*).

Police bail

Where none of the above options are invoked to limit detention, police must then either release the detainee on bail[238] or take them before a court as soon as practicable to have bail issues considered (usually within 24 hours) (s. 7 of the *Bail Act 1980*).

Transportation to the safest facilities

Where a person is detained in the watch-house and is refused police bail, the QPS has adopted a policy in small police stations (such as those in all Queensland's Indigenous communities) that detainees should be transported wherever practicable to the nearest watch-house staffed on a 24-hour basis, such as the Cairns, Mt Isa or Townsville watch-houses (Johnston 1991, vol. 3, p. 221; QPS OPM 10.5.6, 16.18.4, 16.18.5).

In the case of children, there are strict obligations on police that children to be held in custody should be held 'wherever reasonably possible' in a youth detention centre (OPM 16.18.1). Children are not to be held overnight in watch-houses except in exceptional circumstances, such as where the child can remain close to family, where this avoids lengthy transportation to a youth detention centre, and where the child is able to appear in court the next day (OPM 16.8.5).

Watch-house detention in Queensland's Indigenous communities

Despite the legal and policy focus on limiting the detention of people in police watch-house custody, there are limited published data about admissions to police custody in Queensland,[239] and there are no published data on watch-house detention in specific locations in Queensland (see Taylor & Bareja 2005). It is therefore difficult to examine any trends in Queensland's Indigenous communities either over time or across all Queensland's Indigenous communities.

In this section of the report we present information largely obtained from the watch-house custody registers for 2006 and 2007 for four watch-houses in Western Cape York — Weipa, Aurukun, Pormpuraaw and Kowanyama (see Chapter 1 for further details). Although this is a limited sample of Queensland's Indigenous communities, these data allow us to consider the patterns of detention in these watch-houses.

238 Police only have power to grant bail in certain circumstances (s. 7 of the *Bail Act 1980*). For example, police cannot grant bail in the most serious offences, such as murder, for which bail can only be granted by the Supreme Court (s. 13 of the *Bail Act 1980*). In most cases, a person released from custody after being granted bail will be required to sign a bail undertaking, which includes a promise that the person will appear in court at a specified time, bail conditions, and an acknowledgment that if the defendant fails to appear in court or comply with the conditions then a certain sum of money is payable and the person will have committed an offence.

239 The AIC police custody survey referred to above represents the only published data (see Taylor & Bareja 2005).

How many Indigenous people[240] are detained in the watch-houses?

In terms of the number of admissions to the watch-houses, our sample showed that during the two-year period 2006 and 2007:

- Aurukun watch-house had 1248 admissions, an average of 52 detainees per month; of these admissions, the vast majority were admissions made after arrest (88%, *n* = 1095)
- Weipa watch-house had 712 admissions, an average of 30 detainees per month; of these admissions, the majority were admissions made after arrest (67%, *n* = 476)
- Kowanyama watch-house had 561 admissions, an average of 23 detainees per month; of these admissions, the vast majority were admissions made after arrest (84%, *n* = 469)
- Pormpuraaw watchhouse had 284 admissions, an average of 12 detainees per month; of these admissions, the vast majority were admissions made after arrest (92%, *n* = 260).

To provide a comparison with the numbers of admissions from our Western Cape York watch-house data sample, we obtained a QPS count of detainee numbers in the Indigenous community watch-houses in the 12 months from 1 July 2005 to 30 June 2006.[241] This showed that:

- Bamaga, Lockhart River and Pormpuraaw watch-houses had on average about 10 admissions per month
- Mornington Island, Thursday Island and Yarrabah had about 20 to 25 admissions per month
- Aurukun, Doomadgee, Kowanyama, Weipa and Woorabinda had around 50 to 55 admissions per month[242]
- Palm Island had about 120 admissions per month.[243]

To put these numbers in perspective, larger watch-houses in Queensland have a far greater number of admissions than those in Queensland's Indigenous communities. For example, as we have stated earlier, Queensland's largest and most well-resourced watch-house, the Brisbane City Watch-house, averages 2000 admissions per month.[244]

240 Our analysis of the watch-house custody registers from the four Western Cape communities showed that during 2006 and 2007 almost all people admitted to the watch-houses were Indigenous. At the communities of Aurukun, Kowanyama and Pormpuraaw, where the large majority of the population is Indigenous, 99.7 per cent of watch-house prisoners were Indigenous. Although the majority of the population in the Weipa police division is non-Indigenous, the majority of prisoners admitted to the Weipa watch-house were Indigenous (82% Indigenous, 1% non-Indigenous and 17% Indigenous status not known). (The population of Weipa township is 2830, which includes 2348 non-Indigenous people and 482 Indigenous people. Nearby Napranum has a population of 840, the vast majority of whom are Indigenous. Old Mapoon, with a mostly Indigenous population of 240, is also in the Weipa police division (ABS 2007a).)

241 This count was undertaken by the QPS to inform the business case for the digital closed-circuit television (CCTV) project (see Chapter 14). The QPS data comprised a count of watch-house admissions only and no further information was recorded. Counting admissions for any given period simply requires tallying each completed record in the custody register in the period, which is made easier by the fact that each register comprises 100 consecutively numbered records.

242 The monthly average number of admissions for Kowanyama in the QPS count was 49, which was double our register sample figure of 24. The monthly average number of admissions for Weipa in the QPS count was 55, which was almost double our register sample figure of 30. However, the QPS count and our sample provide similar counts for Aurukun and Pormpuraaw. This suggests that there was a substantial decrease in admissions at Kowanyama and Weipa after the 2005–06 financial year, but this is not indicated by the offence data. It is possible that the QPS count for Kowanyama and Weipa mistakenly includes all admissions for the calendar years of 2005 and 2006 given that they were double our count, but we could not confirm this.

243 In 2005–06 the Cooktown watch-house admitted prisoners from Hope Vale and Wujal Wujal (as well as Cooktown), and had about 20 admissions per month on average. The Murgon watch-house admitted prisoners from Cherbourg (and Murgon and other nearby towns) and had about 70 admissions per month.

244 Source: QPS presentation to the Australian Winter School conference, 2006.

What proportion of all offenders are arrested and detained in the watch-houses?

From the watch-house custody registers we examined, we cannot determine what proportion of all offenders against whom police took some action were detained in the watch-house. However, QPS crime report data on offenders include information on whether police responded to each offender by way of arrest, caution, notice to appear, summons or referral to a community or youth justice conference.[245] We therefore considered QPS crime report data for Aurukun, Kowanyama, Pormpuraaw and Weipa to get an indication of the proportion of all offenders who are arrested and detained in the watch-house.

Table 13.1 shows the police response to offenders in all offence categories at the four Western Cape York QPS divisions examined in the two-year period 2004–05 and 2005–06.[246]

Table 13.1: Police response to offenders (number and percentage for all cleared offences[247]), Western Cape York police divisions, 2004–05 and 2005–06

	Aurukun		Kowanyama		Pormpuraaw		Weipa		Total	
Police response	***n***	**%**	***n***	**%**	***n***	**%**	***n***	**%**	***n***	**%**
Arrest	1209	47.6	432	46.5	329	36.9	409	31.1	2379	41.9
Caution	129	5.1	36	3.9	35	3.9	106	8.1	306	5.3
Notice to appear	1064	41.9	434	46.7	518	58.1	750	57.0	2766	48.7
Other[248]	83	3.3	21	2.3	9	1.0	47	3.6	160	2.8
Summons	32	1.3	5	0.5	0	0.0	2	0.2	39	0.7
Community conference	21	0.8	2	0.2	0	0.0	2	0.2	25	0.4
Total	**2538**	**100**	**930**	**100**	**891**	**100**	**1316**	**100**	**5675**	**100**

Source: QPS crime report data, 2007.

245 The QPS data refer to 'community conference', which is known as 'youth justice conference' when juveniles are involved.

246 Note that this is a different two-year period from that in our analysis of watch-house custody registers.

247 An offence is deemed to be 'cleared' by the QPS in a wide range of circumstances, but essentially it is when police have taken an action (such as arrest, notice to appear, caution, informal counselling) against an offender. The method of clearance recorded by the QPS for statistical reporting purposes is the clearance action first taken by police against the offender. Usually that will be the only action taken, but sometimes the police may later take a different action. For example, a person may be arrested and detained but then issued a notice to appear. In that case the method of clearance will be recorded in official QPS statistics as 'arrest' (see QPS 2007a, p. 141). Other information provided by the QPS, however, indicates that the recorded response may sometimes depend on the time that the information is called into the call centre and recorded in the QPS system. For example, if a person is arrested and the officer calls the details into the call centre before issuing a notice to appear, that offender will be recorded as arrested. If, however, the officer subsequently issues a notice to appear or gives a caution and calls the details into the call centre after that action has been taken, the offender may be recorded as having been issued a notice or given a caution (pers. comm., QPS Statistical Services, 26 March 2009). (As we noted above, the police are encouraged to consider discontinuing an arrest and proceeding by alternative means, including considering cautioning or issuing a notice to appear. Our Western Cape York watch-house register sample shows a number of instances where police recorded that people detained in the watch-house were later released with a notice to appear (around 6% of all admissions) and a small number of instances where detainees were cautioned and released. Police are not required to record in the register whether a notice to appear had been issued or a caution given, so there may have been more occasions when this happened. This is consistent with other research that has indicated in Queensland around 20 per cent of people who were arrested were subsequently issued a notice to appear (CJC 1999)).

248 The category 'other' action by police accounts for when the offender is known and sufficient evidence has been obtained but there is a bar to prosecution or other official process, such as the complainant refusing to prosecute or the death of the offender (QPS 2007a, p. 142).

Although some caution should be exercised in interpreting the data in Table 13.1, as they record only one police response taken against an offender, the table shows that:

- alternatives to arrest, especially notices to appear, were used quite frequently by police in these Indigenous communities
- just under half the offenders at Aurukun and Kowanyama were arrested by police and about the same proportion received a notice to appear
- at Pormpuraaw and Weipa, about one-third of offenders were arrested but over half were given notices to appear
- only about 5 per cent of offenders were given a formal caution (almost all of those offenders were juveniles)
- referrals by police to community conferences were very rare, with only 25 over two years (almost all referrals to conferences were of juveniles); Aurukun police made most of the referrals.[249]

By way of comparison, in 2004–05 and 2005–06 QPS data on the police response to offenders across Queensland show that:

- around 38 per cent of all offenders were arrested
- just over 50 per cent of all Indigenous offenders were arrested (QPS 2005a, 2006a).

These data do not suggest that police in Queensland's Indigenous communities are overusing arrest as a means of responding to offenders.

- The proportion of offenders for whom police respond by way of arrest ranged from about 30 per cent to 48 per cent across the four watch-houses.
- This is comparable to data showing that, in Queensland overall, police respond to about 38 per cent of all offenders and about half of Indigenous offenders by way of arrest.

The evidence presented in Chapter 4 on crime patterns in Indigenous communities, which suggests that there are very high levels of violent crime in these communities and that there may be a high proportion of recidivist offenders, also tends to support our interpretation of these data as suggesting that, in general, police do not appear to be overusing arrest. Alternative responses such as cautioning may have only limited scope for application in such circumstances.

The limited use by police of community conferences is of some concern. It may be the result of the limited availability of youth justice conferencing in these communities, as described in Chapter 6. It may also be due in part to the high proportion of recidivist offenders, as described in Chapter 4.

What offences lead to arrest and detention in the watch-houses?

We examined all admissions to the four Western Cape York watch-houses of offenders arrested in the community, to determine the types of offences that resulted in detention in police custody.[250] The frequency of offence types that led to an admission to the watch-house is shown in Table 13.2. For each admission, we only considered the most serious offence recorded by the QPS.

249 The court may also make referrals to community conferences, so the number of referrals by police is not the full extent of referrals made.

250 The data presented in Table 13.2 include only admissions of people detained after being arrested in the community in relation to an offence or those detained for preventive or investigative detention; that is, the data exclude admissions of people who were transferred from custody elsewhere for a court appearance, people admitted after a court appearance, having been remanded or sentenced to imprisonment/detention, or prisoners admitted who were in transit to another watch-house (including those admissions would have 'double-counted' offence types).

Table 13.2: Frequency of the offence types of people in watch-house custody in Western Cape York watch-houses (2006 and 2007)

Offence types	Aurukun		Kowanyama		Pormpuraaw		Weipa	
	n	%	*n*	%	*n*	%	*n*	%
Property	344	32	30	6	28	11	149	31
Good order	295	28	122	26	46	18	84	17
Justice	185	17	92	20	48	18	128	27
Person	135	14	73	16	76	29	68	14
Detention	53	5	39	8	14	5	19	4
By-law	0	0	67	14	38	15	0	0
Liquor Act	30	3	30	6	0	0	9	2
Weapon	15	1	0	0	0	0	0	0
Traffic	0	0	0	0	8	3	19	4

Source: QPS watch-house custody registers.

Note: Only the most serious offence charged against each suspect is included in Table 13.2. The classification of offences in this table largely reflects that used in the QPS Annual Statistical Reviews (which is based on the Australian National Classification of Offences). 'Justice' offences include failure to appear in court, breach of a domestic/family violence order, breach of bail conditions, breach/suspension of parole or probation order, escape custody and other justice process offences. 'Detention' is not strictly an offence type but rather it refers to the use by police of their powers to detain people in custody for a limited period in relation to either offences under investigation or domestic violence situations.

Table 13.2 shows that:

- A higher proportion of admissions to the watch-house were due to offences against the person (that is, violent offences) at Pormpuraaw (29%) than at the other locations (Aurukun 14%, Kowanyama 16%, Weipa 14%). (Our further analysis of the data showed that for the four watch-houses most of the offences against the person that led to admission were 'serious assault' offences.)[251]
- There is a distinct pattern of high proportions of watch-house admissions associated with property offences in Aurukun (32%) and Weipa (31%). (Our further analysis of the data showed that in both places the property offences most frequently occurring were break and enters, followed by vehicle thefts.) In contrast, property offences accounted for only a small proportion of admissions to the watch-house in Kowanyama (6%) and in Pormpuraaw (11%).[252]
- Admissions for justice offences were common across the four watch-houses, accounting for about one-fifth to a quarter of all watch-house admissions (Aurukun 17%, Kowanyama 20%, Pormpuraaw 18% and Weipa 27%). (Our further analysis of the watch-house data showed that in Aurukun and Weipa these justice offences were most frequently the offence of failure to appear in court, whereas in Kowanyama and Pormpuraaw they were most frequently charges of breaching a domestic violence order, with the next most frequent justice offence being failure to appear in court.)

251 Our categorisation of 'serious assault' includes assault occasioning actual bodily harm, assault occasioning grievous bodily harm, serious assault (including serious assault of police), unlawful wounding and similar offences, but excludes common assault and assault of police offences under s. 790 of the *Police Powers and Responsibilities Act 2000*.

252 Nationally, property offences account for 19.3 per cent of admissions to watch-house cell custody (AIC National Police Custody Survey, Taylor & Bareja 2005, p. 30), which makes Aurukun and Weipa substantially higher than the national average, and Kowanyama and Pormpuraaw substantially lower. Property offences rates at Aurukun, Pormpuraaw and Weipa police divisions were well above the state average in 2006, but around the state average at Kowanyama. It is possible that property offenders at Kowanyama and Pormpuraaw were often not admitted to the watch-house but were dealt with differently by police, although there appears to be an association between the high level of property offences in Aurukun (see Chapter 4) and the high proportion of admissions to the watch-house for property offences there.

- Admissions to the watch-house for good order offences were common across the four watch-houses.

  In Kowanyama and Pormpuraaw, where local 'law and order' by-laws exist, a substantial proportion of watch-house admissions result from by-law offences. (Our further examination of the admissions for local by-law offences in these locations showed that this type of offending, when it leads to admission to the watch-house, is mainly public-order-type offending, often involving intoxication.)[253]

  If we add the 'by-law' and 'good order' categories it can be seen that a high proportion of admissions in all locations were the result of public-order-type offences. This accounted for:

  – 40 per cent of all admissions at Kowanyama
  – 33 per cent at Pormpuraaw
  – 28 per cent at Aurukun
  – 17 per cent at Weipa.[254]
- Only a very small proportion of people were admitted to the watch-houses for Liquor Act offences (which include breaches of the AMP).

Table 13.2 shows an important difference from the patterns noted in detention in police custody at the time of the Royal Commission, in that people are not being detained in police watch-houses for failure to pay fines. At the time of the Royal Commission, failure to pay fines was identified as the reason for many people ending up in custody (including in prison) (McDonald 1992, p. 293; see also Johnston 1991, vol. 3, pp. 117–26; Fitzgerald 2001, p. 131).

In Queensland in 2000, the State Penalties Enforcement Register (SPER) was established to reduce the number of people in custody for unpaid fines. Unpaid fines issued in Queensland are now transferred to the SPER system and it is responsible for the collection and enforcement of these fines. The process of 'warrants of commitment', whereby police could formerly detain people in custody for fine default, no longer exists.

We did not see any evidence of failure to pay a fine leading to detention in police custody. On the contrary, during consultations we often heard that there was a great deal of dissatisfaction from police, and a degree of dismissiveness from offenders, in relation to unpaid fines. Police frequently expressed the view that 'there have to be consequences. Fines provide no consequence.' We also heard of community members 'boasting' about accruing large amounts of unpaid fines[255] and generally being dismissive about offending and justice processes resulting in the imposition of a fine.

253 For example, at Kowanyama 81 per cent of all prisoners admitted for by-law offences (n = 58) were charged under by-law 's. 40 Public drunkenness' (however, this offence was usually recorded as 's. 40 Drunk and disorderly'), 16 per cent (11) were charged under 's. 33 Obscene language and offensive behaviour', and 3 per cent (2) were charged under 's. 35 Possession of dangerous articles'. In 78 per cent of by-law admissions, police had recorded that the offender was intoxicated or displayed signs of being intoxicated. It should be noted that we considered all those admitted for by-law offences, not just those admitted to the watch-house where by-law offences were the most serious offence type (as in Table 13.2).

254 Although our results are generally higher, they are consistent with the national results (across Australia) of the 2002 AIC National Police Custody Survey, which showed that public order offences were the category of offences that most frequently led to the detention of Indigenous people (23.5%) and non-Indigenous people (17%) in police watch-house custody (Taylor & Bareja 2005, pp. 29–30).

255 As we have already said in Chapter 9, the fine amounts imposed for AMP breaches are potentially very large. Section 168B of the *Liquor Act 1992* provides maximum penalties for a single offence of up to 375 penalty units (currently $37 500) and for a third or later offence of up to 750 penalty units (currently $75 000 or 18 months imprisonment). However, the average fine amount imposed for a breach of the alcohol restrictions is far less than these maximum amounts (see O'Connor 2008).

How serious are the public order offences?

The large proportion of admissions associated with good order and by-law offences may indicate a pattern of overpolicing if such offending frequently relates to minor or trivial offence behaviours.

As we have discussed in Chapters 4 and 8, our consideration of the evidence suggests that, although public order offences are the most serious offence type associated with a high proportion of admissions to the watch-house in all locations, it cannot be assumed that these represent admissions to the watch-house for relatively minor or trivial offences. Rather, the evidence — including our analysis of the watch-house data on the nature of by-law offences at Kowanyama (presented in Chapter 4) — suggests that these offences are most frequently used to deal with violent or threatening behaviours.

In such cases a reasonable police strategy may be to remove the offender from the situation and allow things to cool down by arresting the offender and detaining them in the watch-house; diversion from watch-house custody may not be an appropriate option.

Public drunkenness

During our consultations, we heard from local police that they viewed arrest and detention of suspects as a last resort, particularly in relation to drunkenness. For example, police told us that they do not detain people who are drunk if they are not causing anyone else problems by being aggressive or violent. Rather than arrest, police indicated they preferred to take the intoxicated person to their home or to the home of a relative willing to take them in. However, if there was no-one to take in an intoxicated person, police told us they are likely to resort to watch-house detention.

It is difficult to examine any aspect of police handling of public drunkenness offences throughout Queensland as the QPS does not record crime statistics on this offence.[256] The matter is further complicated by the fact that, when public drunkenness is associated with some disorderly or violent behaviour, for example, there are alternative public order charges that police may apply. Our sample of watch-house custody registers allowed us to examine the number of QPS records of admissions to the four Western Cape York watch-houses for public drunkenness charges. We found:

- for Aurukun watch-house[257] from January 2003 to the end of 2007 there was an average of 1.2 admissions per month for the charge of being drunk in a public place (in the absence of other charges), which was 2.3 per cent of all admissions[258]

256 That is, for the offence of being drunk in a public place under s. 10 of the *Summary Offences Act 2005* which were not recorded in the CRISP system and are not reported on by the QPS (see QPS 2007a).

257 The QPS provided the inquiry with a watch-house register from Aurukun that recorded admissions for public drunkenness only, for the period August 2002 to February 2006. The use of a register for that purpose suggests that detention for drunkenness may have been a frequent occurrence in past years. The use of a specific 'drunks register' at Aurukun appears to have been discontinued in February 2006.

258 Alcohol restrictions under an AMP began at Aurukun on 31 December 2002. Aurukun watch-house data were available for the period August 2002 to December 2007. The 'drunks register' recorded 54 admissions over the five months to December 2002 — a monthly average of 10.8 admissions, which is a far higher average than since the introduction of the AMP (1.2 admissions per month). We do not have admissions data before August 2002, so we cannot determine if the high number of admissions for drunkenness in the months immediately before the AMP implementation was typical in earlier years or not. It is possible that the police may have changed their practices over time and are detaining people on other alcohol-related charges instead of for public drunkenness. For example, the offence of breaching an AMP could serve as a substitute charge to public drunkenness where a drunk person is carrying alcohol in a restricted area. We found, however, that the number of admissions to Western Cape York watch-houses for AMP breaches was quite low. (See Table 13.2 above; there were 30 admissions for Liquor Act offences — which were mostly AMP breaches — to the Aurukun watch-house and the same number at Kowanyama in 2006 and 2007, an average of just over one per month; Weipa and Pormpuraaw watch-houses had far fewer admissions for Liquor Act offences.) Other offences that may be substituted for public drunkenness are good order offences such as public nuisance or the local by-law equivalents. However, we have presented some evidence that people were not frequently being detained on good order charges simply for being drunk.

- for Kowanyama there was an average of only 0.25 admissions per month in 2006 and 2007, which was 1.0 per cent of all admissions[259]
- Weipa watch-house recorded 1.2 admissions monthly in 2006 and 2007, which was 4.0 per cent of all admissions
- there were no admissions to the watch-house at Pormpuraaw in 2006 and 2007 for public drunkenness only.

The number of watch-house admissions for only the offence of public drunkenness in these four Western Cape communities ranged from zero to a little over one per month, which lends some support to the claims of local police that they do not routinely detain people for public drunkenness alone without some other aggravating behaviour.[260] The offence of public drunkenness only in these communities accounts for a small proportion of watch-house admissions (less than 3% in the four locations combined).[261]

Although we considered watch-house data from only four communities on Western Cape York, these data suggest that the picture may have changed substantially since the time of the Royal Commission, when public drunkenness was identified as the single most significant contribution to the detention of Aboriginal people in police custody.

Our findings in this regard are consistent with the trend for Queensland as a whole shown in the results of the AIC National Police Custody Survey; these results show a marked decrease from 1995 to 2002 in the proportion of Indigenous and non-Indigenous police custody incidents resulting from public drunkenness in Queensland (Taylor & Bareja 2005, pp. 40–1). The small proportion of watch-house admissions we found associated with public drunkenness only (less than 3% in the four locations combined) was considerably less than the proportion of about 14 per cent of all police custody incidents across Queensland that were found to be due to public drunkenness in the 2002 AIC National Police Custody Survey (Taylor & Bareja 2005, p. 40).

How often are juveniles detained in police watch-house custody? For what offences?

We stated above that there are special obligations imposed on police to limit the detention of juveniles in police watch-house custody. During our consultations, police told us that they try to avoid detaining children in the watch-house. However, officers at several locations said they were frustrated by the high level of offending and repeat offending by children. Some police said that, to stop children re-offending, they had little option but to arrest juveniles and detain them in the watch-house.

259 It is possible that intoxicated people were detained at the Kowanyama watch-house for a by-law offence rather than the alternative charge of public drunkenness. However, our data on by-law admissions suggest that the number of such cases was very low.

260 We were unable to compare the frequency of admissions to the Western Cape York watch-houses for public drunkenness with the number of offenders charged with drunkenness, to determine if any people were charged but not detained, as the QPS does not record public drunkenness in its crime statistics. For this reason we also could not compare the rate of public drunkenness offending between locations or with a state average.

261 We checked to see if police charged prisoners with charges additional to public drunkenness, and found only two cases of this over the two-year period, one at Aurukun (where the prisoner was also charged with failure to appear in court) and one at Kowanyama (where the other charge was a breach of the peace).

We examined the four Western Cape York watch-house registers for information about the detention of juveniles. We found major differences between locations:

- Detention of juveniles was rare at Pormpuraaw, with only four admissions of children to the watch-house during the two-year period 2006 and 2007; all four admissions followed arrest. The four admissions comprised only 1 per cent of all Pormpuraaw watch-house admissions and involved just two unique individuals. [262] [263]
- At Kowanyama during 2006 and 2007 there were 27 admissions of juveniles to the watch-house. Juveniles comprised 5 per cent of total admissions to the Kowanyama watch-house. Most admissions of juveniles (*n* = 19 or 70%) followed arrest; the admissions involved 13 unique individuals.
- The situation was quite different at Aurukun, where there were 341 admissions of juveniles to the watch-house. Juveniles comprised 27 per cent of all admissions. The vast majority of these juvenile admissions (*n* = 282 or 83%) followed arrest. The admissions involved 87 unique individuals, some of whom were detained repeatedly:
  - 45 (52%) were admitted more than once in the two-year period and they accounted for 240 admissions
  - 33 of these juveniles were admitted three times or more
  - 16 of these children were admitted six times or more
  - one teenager was recorded as being detained on 16 occasions after arrest during the two years and was admitted a further five times from custody for court (he was aged 12 at the beginning of the period).

  At Aurukun children were typically detained for property offences (80% of juvenile admissions involved property offences), usually break and enter or similar offences and unlawful use of a motor vehicle. The juvenile property offenders had often been detained in relation to multiple incidents, which had mostly occurred at the community store, council building or tavern. Often more than one child was detained in relation to the same incident. It was quite common for the child to be charged with both break and enter and car theft (unlawful use) and sometimes also with wilful damage of property.
- The situation at Weipa was similar to Aurukun, with 166 admissions of juveniles over the two years, mostly for property offences. Juveniles comprised 23 per cent of all admissions. However, many of the admissions at Weipa involved juvenile detainees from other Cape York communities, usually Aurukun, arriving before a court appearance. Just over half of the juvenile admissions (*n* = 89 or 54%) followed arrest and involved 41 unique individual juveniles. Most of these were from Napranum. Seventeen juveniles were admitted more than once, with one child admitted on 10 occasions after arrest.

When do admissions to police watch-house custody occur?

In order to consider the usual workload of watch-houses in Queensland's Indigenous communities, and the implications for resourcing watch-houses appropriately, it is necessary to consider not just the average number of admissions per month but also other information regarding the pattern of admissions. Our examination of the Western Cape York watch-house registers showed that there were peaks and troughs of detainee admissions.

262 We used prisoner name and date of birth to identify unique individuals.

263 The count of unique individuals presented here includes only those offenders detained after arrest in the community and excludes those admitted from custody elsewhere.

Daily admissions

The number of detainees admitted each day over 2006 and 2007 at each of the four watch-houses is shown in Figures 1–8 in Appendix 6. These graphs show considerable differences between watch-houses in the frequency of admissions. However, it can also be seen that even at Aurukun, the busiest of these watch-houses, there were no admissions, or only one or two admissions, on the majority of days. On the other hand, the Aurukun watch-house received five or more detainees in the one day on 88 occasions over the two-year period.

Admissions by days of the week

We also considered admissions to the watch-houses by days of the week, as shown in Figures 13.1–13.4.

Figure 13.1: Day of week admitted to the watch-house in Aurukun

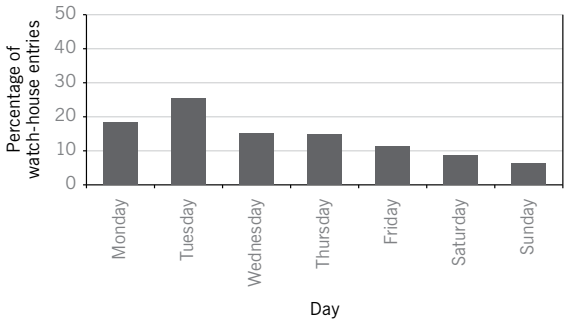


Figure 13.2: Day of week admitted to the watch-house in Kowanyama

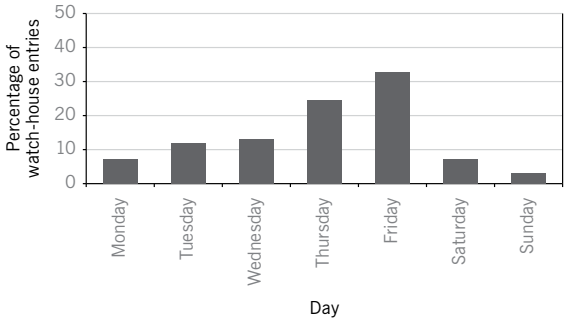


Figure 13.3: Day of week admitted to the watch-house in Pormpuraaw

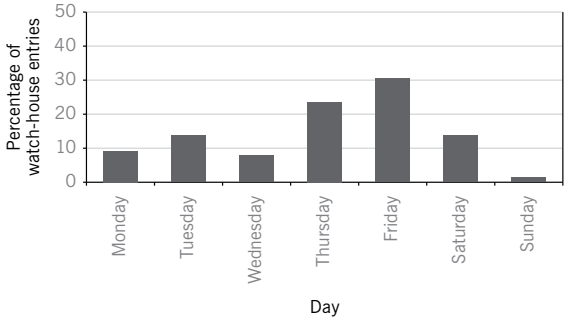
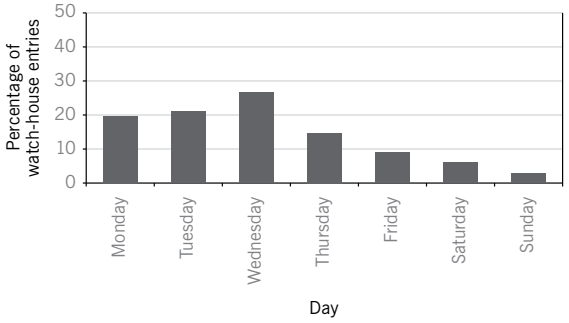


Figure 13.4: Day of week admitted to the watch-house in Weipa



Source: QPS watch-house custody registers.

As can be seen in Figures 13.1–13.4:

- in all locations, fewest admissions occurred on weekends
- at Aurukun there were more admissions on Mondays and Tuesdays
- at both Kowanyama and Pormpuraaw the busiest days were Thursdays and Fridays
- at Weipa the busiest days for admissions were Mondays, Tuesdays and Wednesdays.

The lower number of admissions to the watch-house made on the weekend may reflect the pattern of offending — for example, offending may have been reduced on these days because the taverns were closed on weekends,[264] or because welfare payments were not arriving on

264 However, the liquor outlet at Weipa opened on weekends during the relevant period.

these days. However, the low number of admissions to the watch-house on weekends may also reflect police work patterns, whereby they seek to work as much as possible a standard week and minimise those rostered on shift to work weekends.

The busy days we identified in Aurukun, Pormpuraaw and Kowanyama coincide with those days of the week for which court was scheduled.[265] However, scheduled court days do not fully explain the pattern, as court was not held every week; Magistrates Court sittings throughout Cape York were held on a monthly basis (that is, one day, two consecutive days or three consecutive days every month, but typically the same days of the week each month).[266]

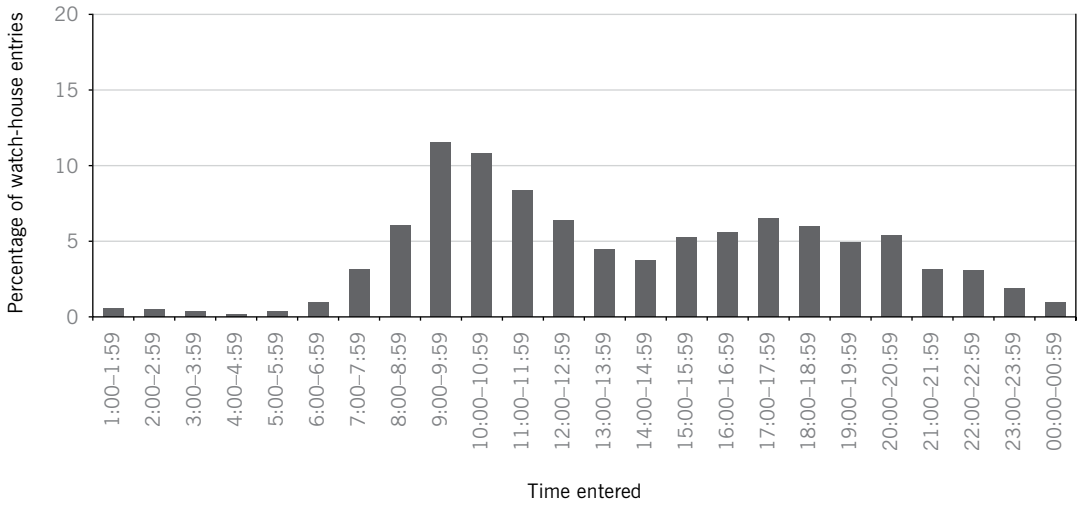
Further examination of the watch-house data showed that the 'busy days' of the week we identified above usually had more admissions whether court was held or not. During the weeks that court sat, admission numbers were largely driven by detainees arriving from prison or youth detention centres for court appearances. In the other three weeks of each month when there was no court sitting, admissions on the busy days were driven by arrests, which were often arrests on warrant for failure to appear in court or for offences such as break and enter. On several occasions in most of the locations, the Tactical Crime Squad from Cairns was present and was involved in arresting the offenders.

The pattern was different at Weipa, where the scheduled court days fell on Wednesdays and Thursdays but the busy watch-house days were Mondays, Tuesdays and Wednesdays. It is likely that this different pattern in Weipa is because to a degree it acts as a service centre for court for Western Cape York communities, so that the pattern of busy days in the watch-house reflects many of the detainees being flown in from elsewhere a day or two before court.[267]

Admissions by time of the day

Across all four watch-houses, the patterns of admission by time of day were similar, as shown in Figures 13.5–13.8. Admissions were very low in the hours from around midnight to 8 am.

Figure 13.5: Time of day admitted to the watch-house in Aurukun, 2006 and 2007



Source: QPS watch-house custody registers.

265 Court sessions were almost always scheduled for the same days of the week.

266 District Court sits infrequently in the Indigenous communities, typically only twice per year.

267 Our analysis of the busiest days for admissions at Weipa watch-house showed that frequently prisoners were arriving for court from Aurukun and other Cape York communities (and a few were in transit between Weipa, the Cape communities and Cairns). Those prisoners were admitted a day or two before their court appearance, most likely because of flight schedules, resulting in many prisoners being held overnight.

Figure 13.6: Time of day admitted to the watch-house in Kowanyama, 2006 and 2007

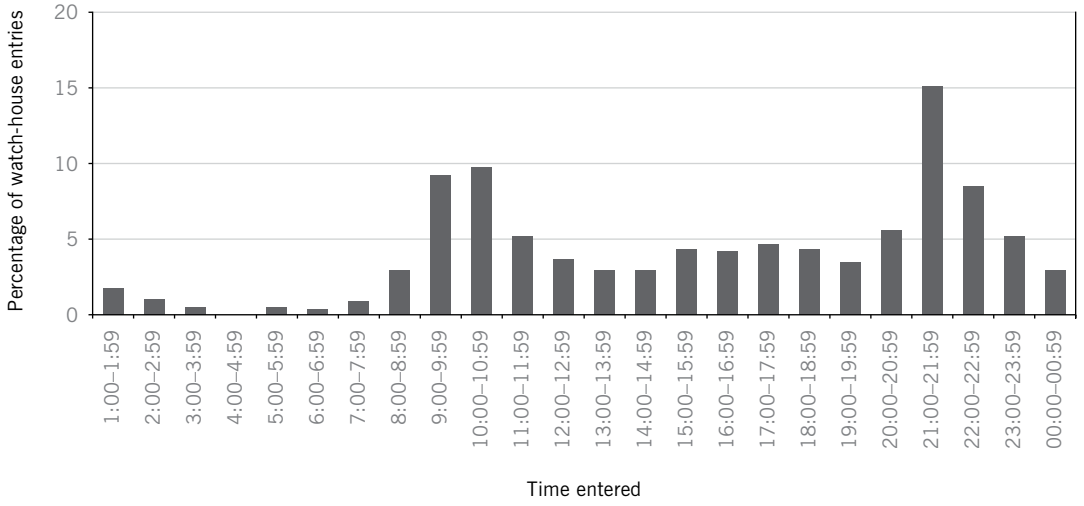


Figure 13.7: Time of day admitted to the watch-house in Pormpuraaw, 2006 and 2007

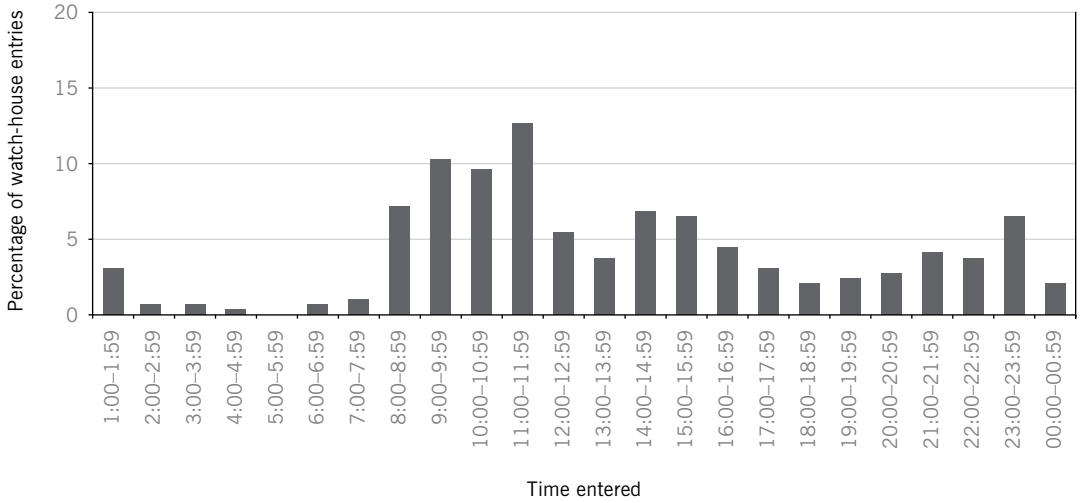
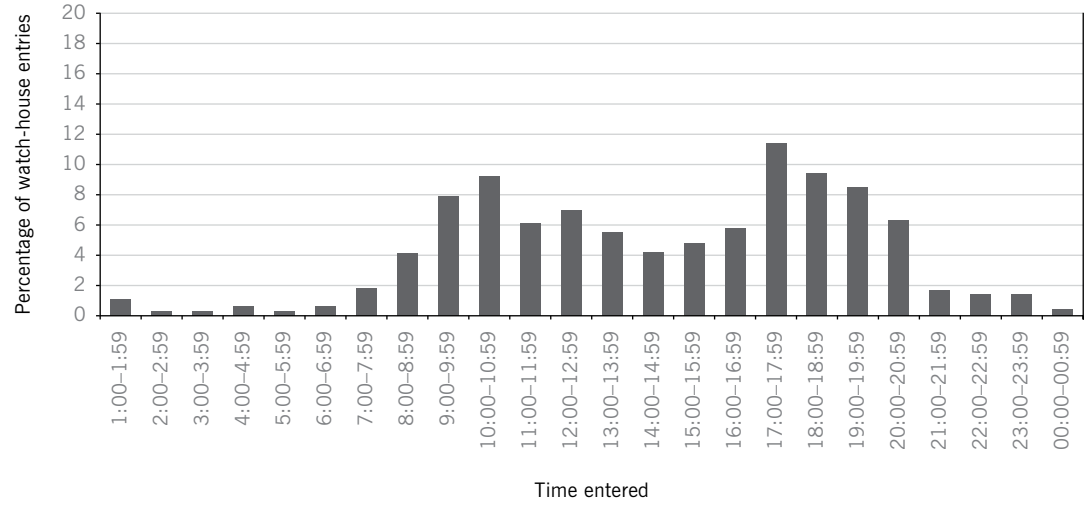


Figure 13.8: Time of day admitted to the watch-house in Weipa, 2006 and 2007



Source: QPS watch-house custody registers.

As shown in Figures 13.5–13.8, admissions were most frequent in the mornings, peaking between about 9 am and 11 am. A second, lower peak occurred in the late afternoon to early evening. Kowanyama had a distinct peak of admissions between 8 pm and 11 pm. Weipa had a similar pattern to the other locations, with admissions occurring in two peaks, the first between about 9 am and 1 pm and a higher evening peak between 5 pm and 9 pm.

The daily patterns of admissions may reflect offending activity, police activity and shift patterns, court hours, tavern opening hours, flight arrival times or other factors. For example, it is unlikely that the peak in watch-house admissions occurring in the mornings reflects when crimes most frequently occur; instead it is likely to reflect when police were on shift and were dealing with matters that had been brought to their attention. The afternoon peaks are likely to reflect tavern opening hours during the data period. At Kowanyama the evening peak of admissions appears to reflect the local practice of evening patrols conducted jointly by police, community police and the community justice group.

The information we have presented about when admissions to the watch-houses occur shows that there are predictable patterns in terms of the days of the week and the times of the day when the watch-house in a particular community is likely to be busy. We found that busy periods for admissions are largely driven by court sittings, execution of warrants for justice offences and arrests for property offences, and also are likely to reflect police work patterns and shift structures.

How long are people held in the watch-houses before they are released or transferred?

Senior police confirmed during our consultations that QPS practice was to transfer all detainees out of Queensland's Indigenous communities as soon as possible, and that this was a risk reduction strategy in place for custody matters. Local police confirmed that, if possible, rather than holding detainees who are not going to be released, police transfer them out of the community on the same day they are arrested, remanded or sentenced, usually to a larger regional watch-house.[268] Police said they do this because of the risks of holding detainees in the community watch-houses, which include the limited number of staff available to supervise detainees, the generally low level of health of Indigenous detainees and the limited medical services available in the communities.

The QPS Air Wing is used to transfer detainees when it is available; commercial or charter flights are also used when necessary. The inquiry was told that detainee flights were a significant expense for the QPS. We heard that the QPS Far Northern Region spent over $100 000 in 2006–07 flying detainees out of remote communities.[269] A senior officer advised us that, overall, detainee flights were very expensive, but the Executive of the QPS 'understood the imperative' of making that expenditure. In the Torres Strait Islands, in addition to the QPS Air Wing, police watercraft are a major method of transporting detainees. In some areas, police vehicles are frequently used to transport detainees to larger watch-houses.

The practice of transferring police detainees is not without risk, as evidenced by the death of a detainee in a community police vehicle near Hope Vale in 2003 and another fatality in a QPS vehicle near Mareeba in 2007 (Barnes 2005; QPS 2007c). Air travel, though much faster than land transport over the vast distances in remote areas, also involves risk; for example, it means that medical assistance will not be available for the period of the flight.

268 Remanded or sentenced prisoners transferred to the larger watch-houses such as those at Mt Isa, Cairns, Townsville and Rockhampton would usually be transferred again to the nearest correctional centre or youth detention centre.

269 We have not attempted to confirm the cost to the QPS of prisoner flights.

In our community meetings a small number of people expressed concern about police prisoners being flown out of the community and not being given return transport. It was said that people taken to regional cities in police custody and then released from custody may become 'stuck there'. Those who raised this concern with us did not seem to be aware of the Homelands Project, which has been implemented by the QPS in Far North Queensland to address this concern. The program repatriates people from the Cairns CBD area (including those released from custody) to their home community (see QPS 2006c, p. 29).

We examined the watch-house data from the four Western Cape York communities to see how long people are held. Table 13.3 shows the numbers and proportions of detainees held for particular durations.

Table 13.3: Duration of detention of detainees in Western Cape York watch-houses, 2006 and 2007

	Aurukun		Kowanyama		Pormpuraaw		Weipa	
Duration	*n*	%	*n*	%	*n*	%	*n*	%
0–2 hours	341	28.0	161	28.6	116	44.4	94	14.4
2–4 hours	318	26.1	179	31.9	65	24.9	98	15.0
4–8 hours	303	24.9	134	23.8	60	23.0	101	15.4
8–24 hours	145	11.9	47	8.4	7	6.5	133	20.3
over 24 hours	112	9.2	41	7.3	3	1.1	229	35.0

Source: QPS watch-house custody registers.

Table 13.3 shows that a substantial proportion of detainees were held in custody for less than four hours, with the vast majority held for less than 24 hours; the exception was at Weipa, where over one-third of detainees were held for more than 24 hours.

The median period of detention was:

- 3.7 hours at Aurukun
- 3.4 hours at Kowanyama
- 2.5 hours at Pormpuraaw
- 13 hours at Weipa.[270]

We found that juveniles were on average held for slightly longer than adult detainees, except at Weipa, where juveniles were held considerably longer (average 22.1 hours).

Longer stays and overnight stays

The longest stay for any detainee in 2006 and 2007 was 122 hours (about 5 days) at Kowanyama watch-house.

The frequency with which detainees were held for extended periods varied considerably across the four locations. A detainee was held for longer than 24 hours:

- at Aurukun, on average every 6.5 days
- at Kowanyama, on average every 14 days
- at Pormpuraaw, on average every 87 days
- at Weipa far more frequently, on average every 3 days.

270 We report the 'median' period because detention periods form a skewed distribution (the mean period is influenced by lesser numbers of long periods).

Despite the efforts of the QPS to transfer detainees out of these communities, our analysis of Western Cape York watch-house registers showed that about one in seven detainees were held overnight[271] (14% of all admissions) at watch-houses in the three Aboriginal communities. Over half (52%) of all detainees admitted to the Weipa watch-house were held overnight.

We considered possible reasons for overnight stays, based on information from the registers. Admissions later in the day (when police may be unable to arrange transport out until the following day for sentenced or remanded detainees), admissions as a result of offences against justice processes, which include breach of bail, probation or parole, and admissions after arrest on warrant (in which case police may have less discretion to release) were the most consistent predictors of overnight stays.[272] However, other factors also play a part, including sentences of imprisonment (and awaiting transport), nature or seriousness of the offence, and possibly also local police practices regarding the exercise of discretion.

It was clear from the Weipa registers that many detainees were admitted a day or two before a court appearance, having arrived from custody elsewhere in Cape York. It is likely that the high proportion of longer and overnight stays at Weipa reflects this practice and the limited availability of flights.

Juveniles and overnight stays

Watch-house registers from the Western Cape York communities showed that juveniles were rarely held overnight at Kowanyama and Pormpuraaw, but were held overnight far more frequently at Aurukun and, especially, at Weipa. This reflects the high number of juvenile offenders in these communities. Over the two-year period 2006 and 2007:

- No juveniles were held overnight at Pormpuraaw (there were only four admissions of juveniles to the watch-house). At Kowanyama, three of the 27 admissions of juveniles resulted in a child remaining in cells overnight. All juveniles detained at Kowanyama and Pormpuraaw were released or transferred in under 24 hours.
- At Aurukun, 53 of the 341 juvenile admissions, or about one in six of the admissions of juveniles (16%), resulted in the child staying in cells overnight. Of the 53 juveniles held overnight, 16 had been admitted from custody elsewhere for a court appearance at Aurukun.[273] The other 37 juveniles held overnight had been admitted after their arrest in Aurukun, almost all for property-related offences.[274] Most were ultimately not released but were transferred out of Aurukun in custody (26 of the 37). At Aurukun, 90 per cent of the juveniles admitted were released or transferred in under 24 hours (287 admissions), but of the others 16 children were held for up to 48 hours and a further 16 were held for more than 48 hours. The longest stay by a juvenile in the Aurukun watch-house was 60 hours (about 2.5 days).

271 We defined an 'overnight' stay as a prisoner having been admitted between the hours of 11 pm and 6 am the next day and held for 4 hours or more. From our examination of the registers, we saw that very few prisoners were released after about 1 am.

272 We used multivariate logistic regression analysis of known factors to predict causes of overnight stays by prisoners.

273 Juveniles transferred in custody to Aurukun watch-house for a court appearance had been in detention at Cleveland Youth Detention Centre, Townsville. The transport logistics involved increase the likelihood of an overnight stay at the Aurukun watch-house.

274 We noted examples where the watch-house registers at Aurukun recorded that Youth Justice Services, Department of Communities were notified by police where a child who had been arrested was about to be held overnight.

- At Weipa, two in three juveniles admitted were held overnight (98 juveniles or 59% of the 166 juvenile admissions). Of the 98 juveniles held overnight at Weipa, 31 had been admitted after arrest and 66 were admitted from custody for a court appearance or after a court appearance, having been remanded or sentenced to detention.[275] At Weipa only 56 per cent of juveniles were released or transferred in under 24 hours (85 admissions). Of the others, 50 children were held for up to 48 hours and a further 17 were held more than 48 hours. The longest stay in custody by a juvenile at Weipa was 88 hours (about 4 days).

We do not have a definite explanation for these long stays for juveniles, but as noted above it is likely that they may have been caused by the limited availability of flights.

What proportion of offenders are being released on bail or remanded in custody?

We examined the data to try to identify those detainees released from watch-house custody on bail into the community and those detainees remanded in custody, in order to assess whether or not the police were under-utilising bail and over-utilising remand. Unfortunately, the reason for release of detainees was not always apparent from the watch-house registers.[276] The data do not distinguish between those detainees released into the community on police bail and those released into the community for other reasons, such as because they had been issued with a notice to appear.[277]

Accordingly, our examination only enabled us to answer these questions:

- How often were detainees bailed or otherwise released into the community?
- How often were detainees transferred out of the community in custody (either because they were under sentence of imprisonment or detention, or because they were remanded in custody for court)?[278]

Our analysis of the Western Cape York watch-house registers shows that:

- The majority of detainees who had been admitted after arrest were bailed or otherwise released into the community (78% of detainees at the three Aboriginal communities, but only 53% at Weipa).[279]

275 The reason for admission was not specified for one juvenile who was held overnight. Many of the juveniles admitted from custody were from other communities, most often Aurukun.

276 Where it was not clear from the register why a prisoner had been released, it is likely that either (a) the prisoner had been released to attend court, and had not received a custodial sentence, so was not returned to the watch-house, or (b) the prisoner received a notice to appear but this was not recorded in the register.

277 Prisoners 'released into the community' include those prisoners given bail by police or the court (the majority of those released were given police bail), given a notice to appear in court by police, released after a court appearance that did not result in a custodial sentence, or released after detention under police powers or domestic violence legislation.

278 Where it was evident in the register that a prisoner had been remanded in custody, it was sometimes not clear whether the prisoner had been remanded by the court or refused bail by police. According to some records in the registers, police had contacted a magistrate in Cairns in relation to bail decisions.

279 Juveniles were more likely than adults to remain in custody. About two-thirds (67%) of juveniles in watch-houses in the Western Cape York Aboriginal communities were released into the community, whereas 80 per cent of adults were released into the community. Only 37 per cent of juveniles were released into the community from the Weipa watch-house. (A lower proportion of juveniles than adults are released into the community, possibly because of the types or numbers of offences committed and/or offending histories, and subsequent custodial sentences or use of remand by the courts.)

- Only 22 per cent of those held in the three Aboriginal community watch-houses were transferred out of the watch-house in custody (in contrast to 45% at Weipa). Across the watch-houses in the three Aboriginal communities, detainees who had been arrested in the community and who were later transferred out of the community in custody had most often been charged with serious assault or property offences,[280] or had been detained for breaching a domestic violence order or breaching a court order,[281] or arrested on a warrant for failure to appear in court.[282]
- For less serious offences such as public nuisance, minor drug offences and Liquor Act offences, it was very rare for detainees not to be released into the community.

Figures 9–12 in Appendix 6 give further details of these data.

The proportion of police detainees in the Western Cape York communities transferred out of the community in custody under sentence of imprisonment, or remanded in custody for court, is broadly consistent with AIC National Police Custody Survey data showing that about one-fifth of all police detainees were released to court or prison (and this pattern was consistent for Indigenous detainees) (Taylor & Bareja 2005, pp. 46–7).

Summary and conclusions: a different pattern from that at the time of the Royal Commission

Since the Royal Commission highlighted the overrepresentation of Indigenous people in police custody and the risks associated with police custody, a range of measures have been put in place to encourage police to limit police watch-house custody as much as possible. However, despite the focus on such measures, statewide data do not indicate any clear downward trend in the detention of Indigenous people in police watch-house custody across Queensland.

Despite the focus on watch-house issues in law, policy and policing over a number of years, it remains difficult to obtain information on the patterns of detention in watch-houses other than at a statewide level.

Our examination of the available data shows that the number of detainees admitted to the watch-houses varies across communities, from 120 per month at Palm Island to around 10 per month at Bamaga, Lockhart River and Pormpuraaw.

Our analysis of QPS crime report data for the four Western Cape York locations shows that police are quite frequently using notices to appear as an alternative to arrest and detention of offenders in the watch-house. Cautions are being used to a lesser extent, but of most concern is that youth justice conferences or community conferences are very rarely used. The limited use of youth justice conferences may simply reflect their lack of immediate availability, as they have been conducted only every six months or so (see Chapter 6 for details). There is evidence to suggest that this is one diversionary option that has some potential to have a crime prevention effect (see Chapter 16), so the use of conferences, in particular, as a diversion strategy should be encouraged wherever appropriate.

280 The property offenders transferred out in custody were mostly juveniles from Aurukun. It was common for them to face multiple charges.

281 Breaches of court orders included breaches of bail conditions (the majority of breaches), probation orders or parole conditions. When a person breaches parole, police must, on locating the person, return them to prison.

282 When a warrant is issued for failure to appear in court, police must, on locating the person, put the person before the court.

➡ Action

That police be encouraged to make increased use of community conferencing as a way of proceeding against juvenile offenders. We have noted elsewhere that the Department of Communities should expand the availability of conferencing.

We also considered the offence types that most frequently led to admission to the watch-house in the four Western Cape York locations. We found:

- Of the Western Cape York communities considered, Pormpuraaw watch-house had the highest proportion of detainees held for violent offences (or offences against the person) and this was the most frequent reason for the detention of people at Pormpuraaw.
- Unusually, in Aurukun and Weipa, watch-house admissions were most frequently associated with property offences; this can be explained by the high number of juveniles in these communities committing property offences together.
- Public order offending accounts for a high proportion of admissions into watch-house custody in all locations. However, it should not be assumed that these mostly involve minor or trivial behaviours. Rather, the evidence considered by our inquiry suggests that these offences are often applied by police to respond to violence or threats of violence.
- Consistent with what we were told by local police officers, the data we considered suggest that public drunkenness alone now very rarely forms the basis of a person's detention in police custody. Rather, drunkenness associated with other offending behaviour, such as violence or threats of violence, seems to be the basis for the more usual scenarios that result in detention in custody for public order or good order type offences.
- Across all of the locations we examined, breaches of justice processes, most notably failure to appear in court, were common offences leading to detention in police watch-houses. In Kowanyama and Pormpuraaw, watch-house admissions were often associated with breaches of domestic violence orders.

The area of offending leading to watch-house detention that is of greatest concern to us — in that a number of such detentions may be 'avoidable' — is breach of justice process offences, in particular the large number of admissions to the watch-house that result from failure to appear in court. In such cases, police are likely to have only limited discretion to respond other than by arrest of the offender (see s. 365 of the *Police Powers and Responsibilities Act 2000*). Police and community justice groups may be able to play a greater role in trying to reduce the number of offences of failure to appear in court, and thereby avoid a substantial number of watch-house admissions.

➡ Action

That a greater preventive focus on failure to appear in court, and other breach of justice process offences where appropriate, be developed by police and community justice groups. In those communities with high levels of justice process offences, such strategies should be incorporated into the crime prevention and criminal justice component of local plans.

Our consideration of the data on the detention of juveniles shows that juveniles were very rarely detained in the watch-houses in Pormpuraaw and Kowanyama. On the other hand, they were frequently held in police custody in Aurukun and Weipa, reflecting high rates of property offending and re-offending and high numbers of property offenders.

We found that there were predictable patterns for admissions, which tend to be concentrated on certain weekdays (the particular weekdays in each location appear to be influenced by court days and perhaps police rostering); admissions were most frequent in the mornings, peaking between about 9 am and 11 am, and then in the late afternoon to early evening. It appears that the pattern of admission mostly reflects when police were on shift and were dealing with matters that had been brought to their attention, rather than when offending mostly occurs.

Of the four watch-houses we examined in detail, we found that, overall, few detainees were detained for very long, except at Weipa. A substantial proportion of detainees were held in the watch-house for less than four hours and the vast majority were held for less than 24 hours. The different pattern at Weipa is likely to be as a result of that location often acting as a service centre for court for other communities, so that offenders are transferred to Weipa for court and problems with flight availability may result in a longer stay. Although, in general, juveniles were rarely held overnight, it was common in Weipa; this is perhaps also related to the availability of flights and the use of Weipa as an important centre for court appearances.

We found that most of those detained in police custody in the Western Cape York watch-houses are bailed or otherwise released into the community, rather than transferred out of the community (to remand or court) in police custody. For the less serious offences such as public nuisance, it was very rare for detainees not to be released into the community. Those transferred out of these communities in police custody had most often been charged with serious assault or property offences (recidivist offenders), or had been detained for breaching justice processes.

Overall, we can conclude:

1. That our examination of data in relation to four Western Cape York locations found evidence suggesting substantial differences from the patterns identified at the time of the Royal Commission.

   In particular, we did not see any evidence of people being detained in police custody for failure to pay fines. We did not see a high proportion of watch-house detentions resulting from public drunkenness alone, but rather we see evidence suggesting that, although a high proportion of detentions involve public-order-type offending, often this relates to violence and threats of violence. This information, together with the information we have presented in Chapter 4 about the high crime levels and high proportion of recidivist offenders, suggests that police may well be approaching the limits of the capacity of diversionary strategies and other strategies to further limit the detention of people in the watch-houses.

   Although the focus on diversion and other strategies to limit the detention of offenders in the watch-house is to be continued and encouraged, again our conclusions strongly suggest that an increased focus on crime prevention must form a central part of any further efforts to reduce the overrepresentation of Indigenous people in police custody in Queensland.
2. The workload of the watch-houses in Queensland's Indigenous communities is variable although predictable within particular communities. Workload is obviously not merely a factor of the number of admissions, but also police resources in any given location, the availability of extra resources at the busy times, and how long people are held for. On Palm Island, the number of watch-house admissions, given the policing resources available, is clearly high. At other locations, given the limited police resources available, admissions to the watch-house are likely to have a substantial impact on other aspects of policing. This is likely to be true for all communities, despite the fact that in some the number of admissions per month was relatively low.

14

CUSTODIAL HEALTH AND SAFETY

The responsibility of the QPS and police officers to care for those they detain is an onerous one. This responsibility has come under intense scrutiny during events such as the Royal Commission into Aboriginal Deaths in Custody and various coronial inquests around the country since that time.

There continue to be powerful moral and political imperatives in relation to all aspects of the detention of Indigenous people in custody, but particularly in relation to deaths in custody. A death in custody is the ultimate risk, but many other risks arising from detention must also be managed.

This chapter examines the policy and practices of police in relation to custodial health and safety of prisoners in watch-houses in Indigenous communities. To set the scene, we have provided a brief overview of the Indigenous deaths in police custody in Queensland since the Royal Commission. The chapter then goes on to discuss custodial health and safety in three areas relevant to the terms of reference:

1. **Watch-house facilities, including the replacement and upgrading of facilities since the Royal Commission and the transfer of prisoners from watch-houses in Indigenous communities.**
2. **Care of detainees by police, including conducting appropriate assessments and inspections of prisoners, the use of electronic surveillance, and the use of resuscitation and first aid.**
3. **Community involvement, including contact visits by family and friends, cell visitor schemes and the potential for community involvement to increase the accountability of police or provide supervision to police prisoners in the watch-house.**

Indigenous deaths in police custody in Queensland

The Royal Commission reported in 1991 that, until that time, there had been little appreciation of, or dedication to, the duty of care owed by custodial authorities and their officers to people in custody. It found 'many system defects in relation to care, many failures to exercise proper care and in general a poor standard of care' (Johnston 1991, vol. 1, p. 3). In addition to proposing that deaths of Aboriginal people must be reduced by reducing the overrepresentation of Aboriginal people in custody, the Royal Commission made a large number of recommendations about the health and safety of people in police custody (recommendations 122 to 149 and 158 to 166). The Queensland Government and the Aboriginal Legal Service Deaths in Custody Monitoring Unit (DICMU) consider that, with one exception, these recommendations have all been implemented since at least 2002 (DICMU 2004).[283]

After the Royal Commission, there is no doubt that there has been a vastly improved focus on custodial health and safety. However, a number of reports and coronial inquests in Queensland have continued to be critical of aspects of the health and safety of people in

283 The exception is recommendation 141, which relates to the need for detainees in watch-houses never to be left unattended and without appropriate supervision and care (DICMU 2004; QLA (Beattie) 2007a, p. 14; see the further discussion below regarding care of detainees by police under 'Leaving prisoners unattended').

police custody (see CJC 1996a; Barnes 2006a, 2006b, 2007b; Clements 2006; see also Barnes 2005). Many of the issues that have been raised mirror precisely those highlighted at the time of the Royal Commission.

How many Indigenous deaths in police custody in Queensland have there been?

At the time of the Royal Commission, research indicated that from 1980 to 1988 there were 16 Indigenous deaths in police cells in Queensland and 22 such non-Indigenous deaths (Biles, McDonald & Fleming 1992).

Since the time of the Royal Commission, the AIC has been tasked with the collection and publication of data on deaths in police custody throughout Australia.

According to the AIC, between 1990 and 2007:

- In Queensland, 18 Indigenous people died in 'police custody or custody related operations'. From 1990 the AIC study has used a broad definition of 'police custody and custody related operations' that takes in all forms of police custody: in institutional settings (police stations, cells, vehicles and hospitals), police operations (such as raids, police shooting incidents) and custody-related police operations (for example, most sieges, vehicle pursuits).
- In Queensland, Indigenous deaths comprised 20.7 per cent of all deaths in 'police custody and custody related operations'. This proportion is about the same as the national average for Indigenous people (19.7%) (Curnow & Joudo Larsen 2009, p. 76).
- In Queensland, three Indigenous people died in police cells and two in 'other custodial settings' (such as a police vehicle) (Curnow & Joudo Larsen 2009, p. 81).[284] (It should be noted that, in addition to these deaths, a further death occurred in a community police van in 2003 while the person was being transported from Hope Vale to a QPS watch-house in Cooktown.)
- Nationally, 20 Indigenous people died in police cells or 'other custodial settings'. Of all jurisdictions, Queensland is among the highest in terms of the number of both Indigenous deaths (three) and non-Indigenous deaths (15) in police cells (Curnow & Joudo Larsen 2009, p. 81).[285]

How have Indigenous deaths in police custody occurred in Queensland?

Coronial and police reports indicate that, of the 18 Indigenous deaths in Queensland police custody and custody-related operations between 1990 and 2007, two were self-inflicted, six were by natural causes, nine were classed as accidental (accidents included deaths caused by head injury, gunshot and external/multiple causes) and one was 'other/unknown' (Curnow & Joudo Larsen 2009, p. 79).

The number of deaths due to hanging in police custody in Australia was identified as a serious concern by the Royal Commission into Aboriginal Deaths in Custody. However, since the release of the Royal Commission's report in 1991, the magnitude of this problem has reduced dramatically, both in Queensland and across the country. During the 10-year period between 1980 and 1989, 86 hanging deaths occurred in police custody throughout Australia, but 45 were recorded in the 18 years after that. There was a decline from an average of 8.6 deaths per year in the earlier period to an average of 2.5 deaths per year in the later period (Curnow & Joudo Larsen 2009, p. 31). One Indigenous death in police custody in Queensland during the period 1990 to 2007 was a death by hanging (Curnow & Joudo Larsen 2009, p. 78).

284 Eight other deaths occurred in public hospitals, four in public places and one in another location.

285 Western Australia had the highest number of Indigenous deaths in police cells (five).

Another key area of concern for the Royal Commission was death in police custody due to drug or alcohol toxicity. Across Australia, the number of deaths due to drug or acute alcohol toxicity has fluctuated since the Royal Commission but since 1998 it has been extremely low to non-existent (Curnow & Joudo Larsen 2009, p. 31). None of the Indigenous deaths in police custody in Queensland between 1990 and 2007 were due to acute drug or alcohol toxicity (Curnow & Joudo Larsen 2009, p. 78).

We considered the findings of coronial inquests or other medical evidence and reports regarding the cause of Indigenous deaths that have occurred in police cells or other custodial settings from 1990 to 2007:[286]

1. Allan Lee-Chue died after having a heart attack while he was seated in the rear of a police vehicle that was transporting him to Mareeba (Barnes 2009).
2. Mulrunji died in a cell at the Palm Island watch-house on 19 November 2004. The coroner found the cause of death to be intra-abdominal haemorrhage due to the rupture of his liver and portal vein, injuries which occurred while Senior Sergeant Hurley was putting Mulrunji into the watch-house (Clements 2006; *Hurley v. Clements & ors* [2008] QDC 323).
3. Calvin Wayne Bee died in a watch-house cell at Normanton on 19 August 2003. The coroner found the cause to be a 'sudden unexpected death in epilepsy' (Barnes 2006a).
4. A Hope Vale man died in an Aboriginal community police van while being transported to the QPS watch-house in Cooktown on 28 April 2003. The coroner found the cause to be self-inflicted hanging (Barnes 2005).[287]
5. Robert Reginald James Parker died on 16 October 1998. The coroner found that the death was caused by burns sustained by accident in a cell of the Cloncurry watch-house (Halliday 2001).
6. Daniel Yock died on 7 November 1993. The cause of death indicated by the autopsy report was a heart attack that occurred after he was put into the rear of a police van in West End to be transported to the Brisbane City Watch-house (CJC 1994).

Although every death in custody is a tragedy deserving of the closest scrutiny, Indigenous deaths in police custodial facilities in Queensland are relatively rare events. We can see from the above that the number of deaths occurring in police watch-house cells has decreased dramatically in Queensland since the Royal Commission.[288] The decrease in deaths in watch-houses has been accompanied by improvements in watch-house facilities and improvements in the standard of care provided to detainees subsequent to the Royal Commission's recommendations. We turn now to examine these aspects and to consider what role, if any, there is for the community to be involved in monitoring detainees in the watch-houses.

286 We have included the death that occurred not in QPS custody but rather in the custody of community police employed by the local Aboriginal council.

287 We have not referred to the deceased man by name as the coroner's findings state that the wishes of the family were that the deceased not be referred to by name.

288 The data on deaths in police custody only provide part of the picture regarding the health and safety of people in police custody. Unfortunately, there are no data available on the number of prisoners who were injured, including incidents of self-harm not resulting in death, while in police detention, or the number of critical incidents in custody such as medical emergencies. Although police would have records of any injuries to or self-harm attempts by prisoners in police watch-house custody, these are not readily accessible data. The AIC has published the results of a pilot study of injuries to police detainees in NSW which showed that these data could be collected, and argued that it was important performance management information for police services (Sallybanks 2005). No national or state comparison data have been published.

Watch-house facilities

What issues have been raised about watch-house facilities?

The Royal Commission highlighted a 'very urgent need' for the upgrading of police custodial facilities (Johnston 1991, vol. 3, p. 232). For example, the watch-house at Wujal Wujal at that time was described as 'nothing more than a primitive dungeon', and the watch-house at Lockhart River was also singled out for criticism. The Royal Commission also noted as a matter of serious concern that many watch-houses of a very substandard quality and with insufficient staff to provide proper levels of supervision were being used for lengthy periods of detention; as we stated above, in some cases this was up to 31 days (Johnston 1991, vol. 3, p. 233).

In response to these concerns of the Royal Commission, there has been concentrated attention from police services on:

- improving the standard of watch-house facilities through their replacement or upgrading; design problems have been a special focus, particularly the elimination of hanging points (Johnston 1991, pp. 232–50; DICMU 2000; see also QPS OPM 16.12.8)
- reducing the length of time prisoners spend in watch-houses, particularly those small, remote or less well-resourced watch-houses.

Despite the increased attention these matters have received, issues relating to the standard of watch-house facilities continue to arise. For example, a number of coronial inquests have made recommendations for improvements to watch-houses after deaths in police custody:

- The inquest into the death of Robert Parker in the watch-house at Cloncurry showed that the death was caused by burns sustained in the cell, and recommended the replacement of cell materials with fireproof alternatives and changes in cell design to allow police to easily visually inspect prisoners (Halliday 2001).
- An inquest into the deaths of two non-Indigenous men in the Bundaberg watch-house showed that one death was by hanging from the door hinge on the cell door. The coroner recommended that modifications be made to eliminate these hanging points (Barnes 2007b).
- An inquest into the death of a non-Indigenous man in the Hervey Bay watch-house showed that the cause of death was asphyxia caused by seizure resulting from severe alcohol intoxication. The coroner recommended that the QPS conduct an urgent review of the doors on all padded cells to determine whether they should be replaced by doors that allow officers to visually inspect prisoners (Barnes 2006b).

The inquest into the death of the Hope Vale man who hanged himself in an Aboriginal community police van while being transported to the nearest watch-house at Cooktown highlighted the risks associated with the absence of watch-house facilities, which has been an issue in some of Queensland's Indigenous communities (see Barnes 2005, pp. 15–16).

In addition to the coronial inquests, Valentin's report to the Australian Government on policing levels in remote Indigenous communities states that the Queensland Government nominated that extra funds were needed for police 'lockups' located in various remote communities to be brought to current standards (2007, p. 10).

What are watch-house facilities like now?

Currently, Queensland's Indigenous communities all have their own police station and watch-house located in the community, with the following exceptions:

- Cherbourg has a police station, but the watch-house facility is located at nearby Murgon
- Napranum is serviced by the police station and watch-house facility at nearby Weipa, as is Old Mapoon 80 km to the north
- Bamaga police station and watch-house provides services to all the communities located within a close proximity in the Northern Peninsula Area

- the Torres Strait Islands only have two police watch-houses; the main watch-house is at the police station on Thursday Island and there is a small watch-house at the nearby Horn Island police station.

Wujal Wujal was without a police station or watch-house for a lengthy period, but a new police station and watch-house were opened there in August 2008, so that police no longer have to travel to and from the station and watch-house in Cooktown some 75 km away (Spence 2008b). The watch-house at Hope Vale was completed in 2005 but closed for a period because of design faults, including the existence of hanging points; the watch-house re-opened in 2007.

Submissions to our inquiry raised the lack of watch-house facilities as an issue in the Torres Strait Islands. Members of the Mer Island Justice Committee suggested that all Torres Strait Island communities should have their own watch-house in case of serious incidents (Mer Island Justice Committee, p. 2). The QATSIP officers on Badu Island felt that the lack of 'holding cells' at the Badu police office endangered them and community members on those few occasions when they had to deal with a person resisting efforts to subdue violent behaviour. The submission of Queensland Corrective Services also suggested that the limited watch-house facilities in the Torres Strait Islands — an area of some 42 000 square kilometres — creates difficulties in terms of the need for prisoner transport (p. 4).

In our consultations at Cherbourg we heard many people say that they wanted 'to get our jail back'. (Many years ago there was a detention facility at Cherbourg but according to local police it was closed after a death in custody, and despite continuing pressure to build another facility the government has refused to do so as there is a 24 hour watch-house at nearby Murgon). These demands were driven by a belief that a local 'jail' would be a deterrent to offending. A further motivation was the belief that prisoners would be safer in a local facility which could be more easily monitored by community members.

We walked through the watch-houses at the police stations we visited. The watch-houses in Indigenous communities are all relatively small and are staffed on an 'as needs' basis by local general duties officers. We observed that the standard of the facilities varied considerably, with some new and some old, but we were not in a position to properly assess the adequacy of the facilities in terms of safety. Our general observations, as well as consultations conducted in the community, suggested:

- Some watch-houses we visited had problems awaiting rectification. For example, the floor surface in the cell used for violent prisoners at Lockhart River was split and peeling off, probably because of water damage. That cell was unusable and had been closed for some time.
- Several people at Murgon and Cherbourg commented about the poor condition of the Murgon watch-house.
- In the Torres Strait, Horn Island is a relatively new facility, which local police advised was not used often. The Thursday Island facility is comparatively old and is used frequently, according to local police.
- At Kowanyama, several people complained to us about the condition of the watch-house. They claimed that the cells were dirty, that there were often mosquitoes and 'bugs' in the cells, and that the bedding was inadequate. Similarly, at Pormpuraaw we heard complaints about mosquitoes in cells because of large holes in the mesh security screens.
- A senior police officer told the inquiry that there is a need for a 'violent detention cell' in the remote Indigenous community watch-houses. This is because, he said, Aboriginal prisoners tend to be 'either docile and easy to get on with, or as good as impossible to control'.
- The OIC at one community pointed out that the cell used for violent prisoners provided very inadequate protection against prisoners injuring themselves, as it had only a hard plastic-like surface on the cell walls and floor. He referred to it as the 'padded cell' but agreed that this was a misnomer.

What has been the government response?

The Queensland Government and the QPS recognise that the standard of watch-house facilities in Queensland requires ongoing attention.

The QPS has a continuous program of regular watch-house inspections carried out internally, including by the watch-house manager and also by an 'independent' regional duty officer, district duty officer or shift supervisor where practicable (OPM 16.22.2, 16.13). In addition, other internal audits of watch-houses are carried out from time to time. For example, at the same time that we were visiting Indigenous communities for this inquiry, the QPS was conducting an audit of the watch-houses in Indigenous communities in order to inform its planned upgrade of CCTV surveillance (see the further discussion below under 'Use of electronic surveillance'). In addition, the QPS's Ethical Standards Command had undertaken in 2006 a fairly comprehensive inspection of 18 watch-houses across the state, which included consideration of building and maintenance problems.

Considerable sums of money have been spent on the continuous program of replacement and upgrading of watch-house facilities. For example:

- The Beattie Government claimed to have spent more than $144 million in the 10 years to 2007 on upgrading watch-house facilities in Queensland, and stated that it was committed to 'the continual upgrade and further improvement of watchhouse facilities around the state' (Spence 2007c).[289]
- The State Budget for 2008–09 included an allocation of funding for the replacement of the Murgon watch-house (and the extension of the Thursday Island station) (Queensland Government 2008j, p. 3).
- The State Budget for 2009–10 has provided funding to commence work on replacing the police station at Lockhart River (Queensland Government 2009d).
- The Queensland Government has undertaken to improve the situation in the Torres Strait Islands. It has committed to constructing a new $10 million police station at Badu Island and has purchased a $4.9 million police aircraft to be based on Horn Island, which should be operational by the end of 2009 (Queensland Labor 2009; correspondence received from the QPS, 3 September 2009).

The provision of safe watch-house facilities, although expensive, remains an important priority if we are to ensure the safety of prisoners in police custody in Queensland.

Care of detainees by police

In addition to the watch-house facilities themselves, the care provided to detainees by police is a vital part of ensuring the health and safety of those in custody. Police officers receive guidance on their responsibilities to provide care to people in police custody through legislation, training and the QPS OPM. The OPM (16.13) states:

> Police officers and watchhouse officers have a duty to exercise reasonable care to protect all prisoners from illness or injury during their detention and to exercise reasonable care in the provision of food, medical care, shelter etc for those prisoners. Safeguards, including monitoring prisoners, should be put in place to observe the behaviour of prisoners.

The OPM describes the general duty of care that police officers and watch-house officers have to people in their custody in terms of their duties relating to the 'preservation of human life' and 'to provide the necessities of life'. The OPM notes that in certain respects the duty owed by

289 The CJC undertook a review of police watch-houses in Queensland in 1996 and recommended that the QPS receive increased funding to accelerate the replacement and refurbishment of watch-houses (CJC 1996a). In its follow-up report to parliament in 1997, the CJC noted that the QPS had received significant funding for both new construction and the watch-house upgrade program (CJC 1997).

officers is like that of 'a parent in relation to that parent's child'. The OPM also notes that a failure to fulfil the duty imposed on officers may make the officer liable for the result (OPM 16.1.1; see also 16.13).

Police we spoke with during consultations gave the impression that police were very aware of their duty of care and the risks associated with holding prisoners. It was also conveyed that there was a general awareness of the complications for police associated with holding people in detention at small stations in particular. One officer stated that police 'make every effort not to lock someone up' and that they consider the implications of the supervisory demands before doing so. It was noted that a decision to hold someone in police custody at a small station may mean that police may be unable to go home or sleep that night (yet may be expected to be on duty again the following day), and that they may not be available to respond to incidents in the community if they are to meet their obligations to properly supervise their prisoner. A number of officers made mention of 'what happened with Hurley' and it appeared that the Palm Island incident had left a heightened awareness among police of the risks associated with detaining people in custody.

The discussion below focuses on particular aspects of the care of detainees that are parts of the general duty of care owed by police.

Assessment

The Royal Commission highlighted the importance of police having an effective system for the physical and psychological assessment of people taken into police custody. It argued that, although police officers should not be expected to make a diagnosis of a prisoner's medical condition, they did have an ongoing duty to assess prisoners in order to make decisions about whether a prisoner needs professional medical attention, special supervision or transfer to an appropriate facility. Of particular concern to the Royal Commission were the number of deaths of people whose behaviour police assumed to be due to intoxication but who were in fact suffering from some very serious illness or injury (Johnston 1991, vol. 3, pp. 195–6). The Royal Commission also stressed the importance of establishing an effective and reliable system for recording and disseminating information about the vulnerabilities of a prisoner (Johnston 1991, vol. 3, p. 203).

As a result of the recommendations of the Royal Commission, health assessment forms are to be completed for each prisoner in order to:

- help to determine whether medical attention is required, and
- assess a prisoner's level of risk to determine appropriate detention and supervision arrangements.

The QPS introduced an integrated computer system (called Polaris) to record information about prisoners, including warnings if a person is thought to have suicidal tendencies. The OPM requires that checks for such information should be conducted when prisoners are to be detained in a watch-house (OPM 16.13.1).[290]

However, coronial inquests into deaths occurring in police custody show that ensuring that adequate assessments are made of detainees' medical needs continues to be a problem. For example:

- The inquest into the death of a non-Indigenous woman while in police custody at the Cairns police station showed that the death was caused by injuries sustained in a motor vehicle crash immediately preceding her being taken into police custody. In this case the police failed to recognise the seriousness of the detainee's deteriorating condition because they assumed that her behaviours were explained by her intoxication (Barnes 2007c, pp. 18–20).

290 The Polaris system has been progressively replaced by the QPRIME system and the OPM refers to both.

- The inquest into the deaths of two non-Indigenous men in the Bundaberg watch-house showed that both deaths were self-inflicted (one by hanging and one by strangulation) and both occurred shortly after each prisoner had been sentenced by the court to a period of imprisonment for his offence behaviour. In both cases the police failed to conduct adequate assessments of the prisoner after this change of the prisoner's circumstances (Barnes 2007b, pp. 18–19).

The comments of the Acting State Coroner in the Mulrunji inquest were highly critical of police assessment of Mulrunji's health. Her comments include that:

- No assessment was undertaken of Mulrunji's health when he was received into police custody at the Palm Island watch-house and there was no adequate reason for this failure.
- The direction to police to conduct a thorough initial health check ought to be strengthened. In particular, where a person taken into custody is unable to be properly assessed initially because they are violent, aggressive or uncooperative, consideration must be given to conducting an assessment by another means (such as through the cell door), by another officer or otherwise at the first available opportunity.
- Officers urgently needed a much greater level of practical guidance on how to conduct health assessments and the assessment tool currently used by police was inadequate and should be replaced.
- There was an urgent need for the QPS to consider increased and improved training of police officers in relation to health assessments, particularly for OICs of watch-houses (Clements 2006, pp. 29–30).

The government's response supported each of the Acting State Coroner's recommendations in relation to the assessment of prisoners, and changes have subsequently been made to police policies and procedures (Queensland Government 2006c). The amendments made to the OPM since the coronial findings provide better direction to officers about the health assessments and reassessments to be conducted on detainees. In particular, a new series of checklists has been provided to help police conduct assessments (OPM Appendix 16.1).

The checklists provide a more thorough way for health assessments to be conducted. The new emphasis on the assessment of a prisoner's best verbal response provided through the basic medical checklist is a good development. However, the OPM could be somewhat confusing for officers as the series of four checklists that police are to use in various circumstances appear to be complex, and there are some fine distinctions between the checklists that are not easy to understand.

The OPM now requires that every prisoner, whether held in a watch-house or not, is to be assessed and reassessed as appropriate so that police can decide whether the prisoner is fit to be held in police custody, or should receive or be transported for medical attention (OPM 16.13.1). The four checklists by which police are to conduct these assessments and reassessments are as follows:

- Checklist 1: The basic 'medical checklist' is provided for the assessment and reassessment of people in custody and 'is to be used as a quick reference guide for courses of action to be taken and in emergent situations' (Appendix 16.1). This checklist provides for an assessment to be made of a person's 'coma scale' according to whether the prisoner's 'best verbal response' demonstrates that the prisoner is orientated, confused, unintelligible or unable to respond. Both the 'unintelligible' and 'unable to respond' categories are said to require immediate first aid and for police to call the Queensland Ambulance Service. Where a person is 'confused', police must consider obtaining a medical opinion.

- Checklist 2: This is the 'Health Questionnaire and Observations Checklist' for those in police custody who are to be held in a watch-house.[291] The initial assessment of all those to be held in a watch-house must be conducted 'at the earliest available opportunity'. Exceptions can only be made where a person is being immediately released or in the case of those being transferred from a correctional centre (OPM 16.13.1). If a person is violent, aggressive or uncooperative, they must be monitored closely until the assessment can be made (OPM 16.13.1). This checklist is the tool by which officers are to determine matters such as:
  - whether medical attention or treatment, or medical advice, is required (by way of reference to checklists 3 and 4 discussed below)
  - whether a person otherwise requires medication or treatment
  - whether the person needs to be segregated from other prisoners
  - the level of supervision and health requirements needed to manage the risks associated with intoxication, overdose or withdrawal
  - the level of supervision and health requirements needed to manage the risk of suicide or self-harm.
- Checklists 3 and 4: A further two checklists are provided for assessments and reassessments of all prisoners in police custody (that is, whether or not they are in the watch-house) and to help police to decide when medical help is to be sought. Each checklist provides a list of symptoms. One list gives symptoms for which it is said medical attention or treatment 'should generally be sought as soon as possible'; these symptoms include 'unconscious or deteriorating conscious state', 'persistently vomiting' and 'suffering hallucinations'. The other list gives symptoms requiring 'medical attention at the first convenient opportunity' or that 'close observation of the person is to be made'; these symptoms include 'vomiting or nausea', 'minor pain and discomfort', 'having difficulty making sensible conversation', 'having difficulty understanding what has happened (confused)' and 'needing assistance to stand or walk' (OPM Appendix 16.1).

The policy at 16.13.1 sets out a range of circumstances in which the responsible officer 'must immediately assess and re-assess' the appropriate level of supervision and health requirements, including where a prisoner:

- is overtly suicidal or at risk of self-harm
- has personal circumstances that may have changed while in custody — for example:
  - being refused bail or sentenced to a period of imprisonment
  - breakup of a personal relationship or conflict with family members
- has, or apparently has, an illness
- is, or apparently is, injured
- is believed to be heavily intoxicated or affected by drugs
- is believed to be alcohol dependent (OPM 16.13.1).

The OPM provides detailed directions for police on management of people at risk of suicide or self-harm and on preventing illness or death from alcohol or drug intoxication, overdose or withdrawal (OPM 16.13.1).

291 The 'Health Questionnaire and Observations Checklist' replaced the old form titled 'Prisoner's Health, Medication and Personal Details' from June 2007. The old form is a printed part of each record in all watch-house custody registers but the new checklist form is now required to be completed instead and then attached to the register.

Health assessments of prisoners — what did the data show?

The inquiry was able to consider only limited data in terms of the health assessments carried out by police of people detained in watch-houses in Indigenous communities. The information we considered was that recorded by police in the four Western Cape York watch-house custody registers, which did not allow us to undertake any analysis of the thoroughness or appropriateness of the assessments carried out by police, for example. Examination of our sample of four Western Cape York watch-house custody registers showed that:

- Police completed the required health assessment checklist for the majority of prisoners admitted (an average of 94.5% were completed for the four locations).
- Where the checklist was not completed (5.5% of records), either the checklist had been left blank[292] or a brief notation had been made — usually 'too intoxicated', 'refused' or 'too aggressive' to answer the checklist questions.[293]
- Across the four watch-houses, in between 22 and 51 per cent of register records, the health assessment indicated that one or more health 'risk factors' had been identified for the prisoner (examples of 'risk factors' specified in the checklist are a previous suicide attempt, treatment for a mental health problem, and alcohol or drug dependency).[294]
- Between 42 and 74 per cent of records indicated that there were no health 'risk factors' identified for the prisoner.

By way of comparison, an earlier watch-house report found that 94 out of 272 (34.5%) admissions to the then Brisbane City Watch-house were assessed as having one or more health risk factors (CJC 1996a).

At Aurukun watch-house we saw a poster, prominently displayed near the cells, which outlined practical guidance to officers about their duty of care and the assessment of health risks. Given the apparent complexity of the OPM, the poster appeared to be a useful reminder to officers of the key aspects of their responsibilities. We were told that it was a QPS-published poster, but we did not notice it on display at other locations and we do not know if it was up to date in relation to the revised OPM.

Given that the watch-house data we considered show that a high proportion of detainees were assessed as having one or more health risk factors, attention to ensuring appropriate inspections of detainees is critical.

Inspections

The Royal Commission (Johnston 1991, vol. 3, p. 215) established the need for frequent and thorough physical checking of prisoners and reported:

> Mere visual surveillance from a distance should in no circumstances be considered sufficient … when a prisoner is sleeping it will be sufficient to establish he or she is breathing in the normal way, is in the coma [or recovery] position if drunk and is not showing obvious signs of distress or injury. At other times, I think it important that the checking include some active personal interaction by way of greeting and conversation, with some inquiry made as to the prisoner's health and needs.

292 Where the checklist was blank, it was common that the prisoner had come from another custodial institution (prison or youth detention) and therefore completion of the checklist was not required according to the OPM (OPM 16.13.1).

293 At Aurukun watch-house, 5.6% of Health Checklists were not completed, at Kowanyama 7.6%, at Pormpuraaw 5.1%, and at Weipa 3.7%.

294 At Aurukun watch-house, 28% of prisoners admitted had one or more health 'risk factors' identified by police. At Kowanyama this was 51% of prisoners, at Pormpuraaw 22% and at Weipa 40%. The difference between locations is notable, but we are not able to explain the variation.

The Royal Commission also stressed the importance of police maintaining accurate records of prisoner inspections for reasons such as to protect officers against allegations of carelessness or misconduct, and to act as a permanent record available to officers on subsequent shifts for whom it may be critical to know of a person's previous behaviour, complaints and condition (Johnston 1991, vol. 3, p. 216).

Subsequently, guidance provided to Queensland police has emphasised the importance of conducting prisoner inspections at least once an hour. However, recent coronial decisions indicate that difficulties with ensuring that adequate inspections are carried out by police continue to arise:

- The inquest into the deaths of two non-Indigenous men in the Bundaberg watch-house showed that there was an entrenched practice at that watch-house of not complying with the requirements of the OPM to conduct inspections of prisoners in person. Evidence given by some officers indicated that they were not aware of their obligations to personally conduct inspections, and evidence of the watch-house manager indicated his view that such inspections were not always possible or necessary. One man lay dead in his cell for an hour and 20 minutes before police became aware that he had died.

  The coroner recommended that the requirements for police to conduct inspections as set out in the OPM be reviewed and that watch-house managers be reminded of the requirements (Barnes 2007b).
- The inquest into the death of a non-Indigenous man by asphyxia in the Hervey Bay watch-house showed that police failed to conduct any physical inspections of the prisoner as required once he was lodged in his cell because the prisoner had smeared the cell with faeces and was naked. The prisoner lay dead in his cell for two hours before police became aware of his death. The coroner stated that 'at the time of the incident, even though both watchhouse keepers had relatively recently undergone custody training, it seems their knowledge of appropriate procedures was inadequate'.

  The coroner recommended the implementation of procedures to enable inspections to be undertaken in all circumstances (Barnes 2006b).

In addition to these cases, the Acting State Coroner's statements in relation to the care provided by police to Mulrunji (and the other man detained in the same cell) have become well known. She said:

> There was no attempt whatsoever to check on Mulrunji's state of health after the fall and its sequelae. The so called checks on the two intoxicated prisoners in the cells was woeful, even excluding the possibility of serious injury having occurred. Neither officer remained in the cell for more than seconds on each occasion they entered to check the prisoner. It was not until Sergeant Leafe suspected that Mulrunji might in fact be dead, that any close scrutiny was made. (Clements 2006, p. 27)

She also stated:

> … Mulrunji cried out for help from the cell after being fatally injured, and no help came. The images from the cell video tape of Mulrunji, writhing in pain as he lay dying on the cell floor, were shocking and terribly distressing to the family and anyone who sat through that portion of the evidence. The sounds from the cell surveillance tape are unlikely to be forgotten by anyone who was in court and heard that tape played. There is clear evidence that this must have been able to be heard from the police station dayroom where the monitor was running. Indeed the timing of Senior Sergeant Hurley's visit to the cell suggests that the sounds were heard. But the response was completely inadequate and offered no proper review of Mulrunji's condition or call for medical attention. The inspections were cursory and dangerous even if Mulrunji had been merely intoxicated. The so called arousal technique of nudging Mulrunji with a foot is not appropriate … It was simply the quickest but also the most demeaning way in which a police officer might elicit a response. (Clements 2006, p. 32)

The Acting State Coroner's comments included that the OPM should be 'urgently reviewed' to provide a much greater level of practical guidance to officers on how to conduct checks of people in their custody (Clements 2006, p. 30).

The government response supported the Acting State Coroner's recommendations in relation to the checks on prisoner health and changes have subsequently been made to police policies and procedures (Queensland Government 2006c).

The guidance provided to police in the OPM has been amended since the Mulrunji inquest to include an explicit requirement that, during an inspection, an officer is to make a reassessment of each prisoner's health (see 16.13.3).

The OPM currently states that:

- Watch-house managers are responsible for making sure that the regular prisoner inspections occur (16.13.3).
- Watch-house managers, on commencing duty and immediately before finishing duty, are to conduct an assessment of each prisoner; watch-house managers are to physically inspect each prisoner at the shift changeovers (OPM 16.22.1).
- Otherwise, inspections are to be conducted regularly at varying intervals but at intervals of no more than one hour. The frequency of inspections is to be consistent with the prisoner's risk assessment level and the OPM states that prisoners displaying suicidal tendencies should be closely or constantly monitored until medical attention can be obtained (see OPM 16.9.5, 16.13.3 and 16.13.1).
- Inspections must be conducted personally by an officer irrespective of whether or not video monitoring equipment is installed. Inspections are to be conducted regardless of circumstances where prisoners are naked, where the cell has been soiled with urine or faeces, when only one officer is on duty in the watch-house, or any other circumstance (16.13.3).
- During an inspection, officers are required to 'assess' each prisoner to determine whether a prisoner is in need of medical treatment, whether the prisoner should remain alone or be placed with other prisoners, and the frequency of further inspections (OPM 16.13.3).
- To conduct an inspection, officers are required to:
  - read the information in the Watch-house Custody Register before the first inspection
  - observe a prisoner's physical appearance and demeanour
  - ask prisoners who are awake if they are well
  - pay particular attention to any prisoner apparently intoxicated to ensure that intoxication is not masking symptoms of a serious medical condition
  - ensure that a sleeping prisoner is breathing comfortably and appears well
  - wake a sleeping prisoner where the officer is unsure or concerned (OPM 16.13.3).
- All details of the prisoner inspections must be recorded in the Prisoner/Watch-house Inspection Register, including any differences from previous assessments, any injuries observed and any actions taken (OPM 16.13.3).

The inquiry could not assess the frequency or adequacy of prisoner inspections carried out in watch-houses in Indigenous communities. However, the existing evidence in a number of cases in Queensland shows a level of non-compliance with the OPM requirement for physical inspections of every prisoner to be carried out on at least an hourly basis. We identify an action below that the QPS should begin a regular program of auditing CCTV footage to ensure that such inspections are being carried out as required.

Leaving prisoners unattended

The Royal Commission considered the problem of prisoners being left unattended in watch-houses. It found that many police stations outside metropolitan areas were holding people in custody, including overnight, notwithstanding the absence of staff in some places and notwithstanding the lack of any effective means by which a prisoner could raise the alarm in an emergency. The Royal Commission was critical of the situation that existed in some remote Queensland Aboriginal communities where Aboriginal community police, who had no training whatsoever in the assessment or supervision of prisoners, were placed in charge of lockups (Johnston 1991, vol. 3, p. 219). It recommended:

> That no person should be detained in a police cell unless a police officer is in attendance at the watchhouse and is able to perform duties of care and supervision of the detainee. Where a person is detained in a police cell and a police officer is not so available then the watchhouse should be attended by persons capable of providing care and supervision of persons detained. (Recommendation 141, Johnston 1991, vol. 3, p. 248)

The evidence in the Mulrunji inquest indicated that people in custody on Palm Island were left unattended for up to an hour while police undertook other duties. In part this practice was said to be the result of inadequate staffing levels on Palm Island. However, it was clear from the evidence that leaving prisoners unattended was not always a matter of operational necessity. Evidence was provided of one instance where a severely intoxicated Indigenous man was left unattended in a cell in the watch-house when two officers left the watch-house to make some inquiries that were not urgent, in circumstances where one officer could certainly have stayed in the watch-house, and while they were out they had a cup of tea (see coronial inquest transcript R1242 L8–18; R1239 L20–30; R1275 L25 – R1276 L2; HREOC 2006, p. 28). Senior Sergeant Hurley's evidence indicated that he thought it was sufficient that an inspection was conducted once an hour (R1240 L28 – R1241 L5).

The Acting State Coroner's comments in the inquest included the recommendation that people in custody should not be left unmonitored under any circumstances and that staffing levels should be adequate to ensure that people in custody are never left unmonitored (Clements 2006, p. 30).

In the aftermath of the Mulrunji death, the then Premier admitted that the Royal Commission recommendation regarding the need for constant care and supervision of any detainee in the watch-house needed ongoing attention (QLA (Beattie) 2007a, p. 14). The Queensland Government's response to the Acting State Coroner's comments in the Mulrunji inquest expressed in-principle support for the recommendation that people should never be left unmonitored in police custody but also stated that the QPS could not commit to its implementation 'in all instances but is committed to ensuring that this situation is minimised as much as possible' (Queensland Government 2006c).

Although amendments have been made to QPS policy and procedures since the Mulrunji inquest, the OPM continues to acknowledge that for operational reasons there may be times when it is necessary for a person in custody to be left unattended temporarily in a watch-house or holding cell. For example, at a single-officer station, for operational reasons an officer may be required to leave the person in custody unattended in a holding cell where there is an unacceptable risk that the person's release would endanger the safety or welfare of any person and where the officer must respond to an urgent incident involving significant risk to person or property (OPM 16.12.9). The OPM states that officers should not leave people in custody unattended where a suitable alternative exists and any decision to leave a person in custody must be able to be justified in the circumstances (OPM 16.12.9).

Before officers leave a person in custody unattended, the OPM provides that they must consider recalling another officer to duty, obtaining assistance from another station or transferring the person to another watch-house (OPM 16.12.9). However, in most remote Indigenous communities, obtaining assistance from another station or transferring a prisoner

at short notice is not possible because of the lengthy travel times. The option of recalling officers to duty may not be available at stations where staff numbers are few, as there may simply be no other officers.

Police OICs at some communities admitted during our consultations that prisoners are occasionally left unsupervised. One OIC at a two-officer station explained that this happened rarely, but said 'we try to supervise every prisoner, but if it is 2 am in the morning and we've [both] been up all day, then they are on their own'. He also said that police from time to time asked community police officers to be present in the watch-house, either to supervise a prisoner while police were absent attending a call, or when a prisoner was violent and police felt they might need a witness to any possible incident.

Another OIC explained that calls for assistance involving serious incidents also meant that a prisoner may be left alone for short periods. At his station (where there were more than two officers), officers on duty or on call-out would attend the incident and, if the officers were likely to be absent from the station for longer than 30 minutes, their local policy required them to call out another officer to supervise the watch-house.

One of the most frequent complaints made to the inquiry by community members was the failure of police to respond to calls for assistance, and the need for police to supervise prisoners was seen as contributing to this problem. Community members told us that, on some occasions, police claimed that they could not respond to calls for assistance because they were on 'suicide watch' over prisoners in the cells.

The increases to police staffing levels in many Indigenous communities, which included that two-officer stations have become four-officer stations, should have helped to alleviate the difficulties faced by police in balancing the competing demands of responding to calls for service in the community and providing adequate care to detainees in the watch-house (see Chapters 6 and 9).

Our inquiry was not able to consider how frequently or the length of time for which prisoners are left unattended in watch-houses in Indigenous communities. There is no requirement that police routinely record and report such information. However, as it has been previously recommended that police prisoners should at all times be supervised and never left unattended, we identify an action below that the QPS introduce a requirement that all such incidents that occur because of circumstances of operational necessity must be recorded and audited by the QPS. Apart from the accountability this process provides, the information has clear implications for QPS assessment of staffing needs in Queensland's Indigenous communities.

Use of electronic surveillance

The Royal Commission found that, at best, electronic CCTV surveillance equipment is only a monitoring aid and should never be treated as a substitute for human interaction between custodial staff and prisoners. In addition it noted the danger that the use of electronic monitoring equipment in custodial facilities can breed complacency (Johnston 1991, vol. 3, p. 217).

For some time, watch-houses in Indigenous communities have had VHS video CCTV surveillance of cell areas of the watch-house.

Although the QPS OPM specifies that prisoner inspections are to be conducted personally, irrespective of whether or not 'video monitoring' equipment is installed, a number of coronial decisions have illustrated that police have inappropriately relied on observing prisoners on the CCTV monitor. For example:

- The inquest into the deaths of two non-Indigenous men in the Bundaberg watch-house showed that some officers believed prisoner inspections could be carried out by looking at the prisoners on the CCTV monitor. The coroner stated: 'To suggest that the purposes of cell inspections can be achieved by a method that does not even enable a watchhouse staff member to tell whether a person is alive or dead is ludicrous' (Barnes 2007b, p. 21).

- The inquest into the death of a non-Indigenous man at the Hervey Bay watch-house shows the inadequacies of relying on observation of a prisoner on the monitor. The coroner stated: 'While this mode of monitoring a prisoner may be adequate when he or she is moving about, when a prisoner is prone or still, it does not enable the viewer to determine whether the prisoner is asleep, unconscious or dead' (Barnes 2006b, p. 12).

The Acting State Coroner was also critical of the use of video monitoring equipment in the Mulrunji inquest, although it is not entirely clear what difficulties she identified. Her comments included that police should consider the need for greater training in relation to the use of monitoring equipment (Clements 2006, p. 30).

The day after the government announced our inquiry on 6 February 2007, after a period of pressure from the Police Union, the Queensland Government committed to auditing all existing surveillance systems in watch-houses across Queensland's Indigenous communities and to undertake an upgrade to ensure digital CCTV coverage of all cells and other public areas in watch-houses in Indigenous communities. The Hon. JC Spence, the then Minister for Police and Corrective Services, stated that this meant, for example, that in Yarrabah an additional 22 cameras would be installed in that police station (QLA (Spence) 2007, p. 128).

The QPS audit confirmed that, for the most part, the video surveillance systems were outmoded and inadequate. The upgrade to digital CCTV occurred immediately in Aurukun, Palm Island and Woorabinda and upgrades to all other watch-houses in Indigenous communities were completed over the following period to March 2008 (QLA (Beattie) 2007b, p. 114). The new digital CCTV systems have a number of advantages over the old video technology, including better quality of the images and sound recorded,[295] and better accountability provided through automatic recording, tamper-proof design and automatic storage for 186 days (cells and exercise yard) or 14 days (public front counter area).

In the 2007 Queensland Budget, $1.5 million was allocated to this upgrade (Spence 2007a). The total cost of the upgrade to digital CCTV surveillance in police watch-houses in the Indigenous communities was $6.4 million in capital funding and $0.5 million in operating funding (Queensland Government 2008k).

The rationale provided at the time the government committed to the upgrade was principally because 'the police want greater protection' and to 'protect officers when allegations are made against them', but also to provide additional protection and supervision for offenders in all custodial areas of watchhouses (QLA (Spence) 2007, p. 128; Spence 2007c).

During the inquiry's consultations, both police and community members[296] were generally supportive of the upgrade to digital CCTV. However, a small number of police and community members expressed some dissatisfaction with the high cost of the project. For example, some OICs queried whether the funds could be put to better use as they suggested that some watch-houses in remote communities either hold few prisoners or hold prisoners for only short periods of time.

Police we spoke to during consultations said that the CCTV system would assist in terms of dealing with situations such as assault by prisoners, false allegations of misconduct made against police, and prisoners suffering health crises or self-harm. One OIC made the point that the new system is limited in its ability to increase the safety of a person in custody because effective monitoring of a prisoner must really be done in person. This officer argued that the real value of the system will be its use to resolve complaints against police.

295 The QPS digital CCTV systems that are installed record sound in the cell and exercise yard areas, but not in the front counter areas.

296 This statement is true for those community members who indicated that they were aware of the change.

Submissions to the inquiry expressed support for the upgrade on the basis that it would improve prisoner safety (submissions of Sisters Inside, p. 6; Legal Aid Queensland, p. 4). The submission compiled after a workshop at the Law School of James Cook University, however, sounds a note of caution about overreliance on technology to monitor people in custody and states that human monitoring rather than electronic is what is needed (p. 28).

There are limits to how effective any electronic surveillance system can be in ensuring that prisoners are kept safe:

- If no-one is watching, it does not provide any safeguard at all. Officers are most likely to be monitoring the digital CCTV footage from time to time as they undertake a range of other activities; not only are they likely to be mostly focused on other things but they are likely to be absent from time to time from the area where monitors are available.
- The problem of police turning down the volume of the audio from the cells, so that it does not distract them in the police station when a prisoner is being a nuisance and creating a disturbance, that have arisen in the past with the video CCTV technology may remain with the new system.
- Even if it were the case that the constant monitoring of digital CCTV footage is possible, it provides no information about prisoner safety when that person is motionless (in which case they may be asleep, unconscious, dying or dead) and only limited information if they are non-verbal, which is another important aspect of any health assessment.

The accompanying text box illustrates the benefit of electronic surveillance for police in relation to some watch-house admissions.

A custody incident described by police

To illustrate the difficulties that police in remote communities can have in relation to custody, the OIC at one community related to us the story of a recent arrest.

The OIC was driving to the community store; he was off-duty and in plain clothes with his children in his car. He was flagged down when passing a house and he was told that someone was at the house causing problems. From the car he saw a man who was known to him who was very drunk. The man was abusing the occupants of the house, who were becoming agitated. The man was then abusive to the OIC. The man refused to leave the premises when requested by the OIC.

According to the OIC, the other people present were 'telling off' the drunken man. When the commotion caused more people to arrive, the OIC decided that the situation could turn violent. The OIC withdrew from the scene and went to the police station. He changed into uniform and picked up another officer, and together the two officers returned to the house in the police vehicle. The officers tried to talk the man into leaving but he became more aggressive, so they decided to arrest him. While they tried to put the man into the police vehicle he resisted. As the two officers struggled with him, some in the crowd turned their attention from the man to the police and began to accuse them of being 'too rough'. The OIC noted that such situations can present significant risks for police, because if 'things had turned nasty' the nearest police assistance would not arrive for several hours. The police were able to get the man safely into the vehicle and they drove back to the police station.

After being placed in a cell at the watch-house the man became quite violent, rushing at the cell walls and head-butting the wall. The man would not calm down and continued to throw himself around the cell, so police called his family to come to visit him. When family members arrived at the watch-house, the man had settled and gone to sleep. The family decided to remain in the watch-house to sit with him.

The next morning the man seemed well but could not remember any events from the night before. When he was released, he gave the OIC a wave and said 'see ya, Sarge' as he walked off. However, later that day the OIC heard that the man was complaining of feeling sore. The OIC said to us that he would not be surprised if the man made a complaint against police. The OIC went on to exclaim 'thank God for video surveillance' in the watch-house, as otherwise he thought it would be difficult for anyone to believe that the man had not been assaulted in the cells.

Electronic surveillance can be useful as a tool to help the police to monitor people in custody but it is not a substitute for inspections and personal contact. It provides a useful accountability tool, especially if regularly audited, and can provide protection to both prisoners and police. It may also enhance community relations if it can be used to defuse potentially volatile situations in the community arising from negative perceptions among community members of what went on in the watch-house.

Resuscitation and first aid

The Royal Commission determined that there was a clear need for regular training for police officers to be able to competently attempt resuscitation, and that police should attempt resuscitation in all but the clearest of cases (Johnston 1991, vol. 3, p. 283). More recently, coronial inquests into the deaths of people in police custody have demonstrated that police failed to attempt resuscitation and/or did not know how to try to resuscitate a person (Barnes 2007c, p. 20; Clements 2006). For example, in the inquest into the death of Mulrunji the Acting State Coroner stated:

> No attempt at resuscitation was made by any police officer even when there was a degree of uncertainty about whether Mulrunji had died. (Clements 2006, p. 27)
>
> …
>
> When there was serious doubt about Mulrunji's health it was alarming to think that there was no-one who had either the skills, the medical or safety equipment or the inclination to implement an attempt at cardio pulmonary resuscitation. There was still uncertainty at that time that Mulrunji had died. (Clements 2006, p. 33)

Her comments included recommendations that:

- theoretical and practical training in first aid should be mandatory for all OICs of a police watch-house
- watch-houses should have appropriate first aid and resuscitation equipment (Clements 2006, p. 30).

The Queensland Government's response expressed its support for the implementation of these recommendations (Queensland Government 2006c).

The evidence we presented earlier showed that between 22 per cent and 51 per cent of the prisoners admitted to the four Western Cape York watch-houses we examined were assessed as having one or more health risk factors. This emphasises the importance of ensuring adequate first aid and resuscitation training for officers working in watch-houses.

Community involvement in the watch-house

Community involvement in the watch-house can bring important benefits for prisoner health and safety. It can provide an important form of moral support for prisoners and can improve communication between police and prisoners about possible problems. Community involvement in the watch-house may also have the important benefit of increasing the levels of trust and confidence that the community has in the police. As one councillor at Aurukun noted: 'We want to be sure that people are looked after properly. Historically Aboriginal prisoners were ill-treated. Somebody who is a local needs to be involved in cells.'

A range of community involvement in the watch-house is possible, from contact visits by family members and other visitors (such as members of community justice groups) to provide care and comfort to detainees, through to trained community members providing supervision to prisoners within the watch-house, including in the absence of police.

The importance of Aboriginal prisoners having access to outside support while in custody, whether they be friends, family or other visitors, was well documented at the time of the Royal Commission (Johnston 1991, vol. 3, pp. 228–38). It recommended that:

- police should take all reasonable steps to encourage and facilitate visits by family and friends of persons detained
- it should be mandatory for police to immediately notify the relatives of a detainee who is regarded as being 'at risk', or who has been transferred to hospital
- cell visitor schemes should be introduced to service police watch-houses wherever practicable; these schemes should, however, in no way lessen, to any degree, the duty of care owed by police officers to those detained (recommendations 145–7, Johnston 1991, vol. 3, p. 249).

The Royal Commission documented a range of cell visitor schemes operating across Australian jurisdictions, most of which were relatively new at that time.[297] Queensland at this time was piloting a cell visitor scheme in Brisbane and other major regional centres. In addition, the Royal Commission also documented that there was a range of schemes operating across the country whereby community members were involved in the supervision of prisoners in some country areas where staffing made it difficult or impossible for police to provide supervision at all times. For example, in Cherbourg at that time, local people employed by the council as community police had been appointed as watch-house keepers to supervise prisoners.

Currently in Queensland's Indigenous communities, community involvement is largely limited to rather ad hoc arrangements to provide care and comfort to watch-house detainees. In this section we consider whether the available evidence suggests that greater efforts should be made to involve members of the community in providing care and comfort or in providing supervision to watch-house detainees.

'Care and comfort' visits by family and friends

The QPS OPM states that the watch-house manager should permit a visit by any person with an interest in the health and welfare of a prisoner, subject to the consent of the prisoner and operational and/or security needs of the watch-house (OPM 16.22.10).

Our consultations confirmed that visits by family members to prisoners in custody were generally allowed and even encouraged by police in Queensland's Indigenous communities. When a person was likely to remain in custody, it was said that police would contact family members directly or through an intermediary such as an Elder or the community justice group. The need for police officers to supervise visitors meant that visits were typically brief.

We observed that several watch-houses in Indigenous communities are designed to allow visitors to sit outside the watch-house in areas adjoining some cells and to be able to see and speak to prisoners. Generally a small covered area gives visitors some protection from the sun or rain. Mesh grilles prevent the passing of objects from one side to the other. Watch-house design that allows for greater contact between prisoners and members of the community in this way is commendable.

297 In fact, most had been established in response to recommendations made in the Royal Commission's interim report (see Johnston 1991, vol. 3, pp. 228–30).

Most OICs said that they allowed family members to bring food for prisoners.[298] At Aurukun we heard from community members and service providers that in late 2006 police stopped this practice. They said that police had made the decision because there were not enough officers to monitor the provision of food.[299] The community members felt that the decision contributed to problems between the community and the police that culminated in the riot in January 2007 (see Chapter 1). This suggests that the level of openness and transparency in the way that the watch-house is operated can directly affect the levels of trust and confidence of the community in relation to watch-house matters; police should be aware of the important role that contact visits by family and friends may play in maintaining trust and confidence.

Given the possible benefits to the prisoner of contact visits from family and friends and the positive effects this can have on police–community relations, police in Queensland's Indigenous communities should continue to do all they can to facilitate such contact visits, where appropriate.

'Care and comfort' visits provided by cell visitor schemes

A further avenue of community involvement is provided in some watch-houses through cell visitor schemes. Such schemes are focused on providing care and comfort to prisoners, but their stated aims can also include aspects of prisoner health and safety.

The stated aims of cell visitor schemes in Queensland are to:

- help prevent suicide and self-harm
- assist with observation and identification of detainees' needs and problems, including the identification of symptoms suggesting the need for medical attention
- enhance communication between detainees, watch-house staff and others
- offer company, support, information and referrals (see QPS OPM 16.23; Mackenzie undated).

As part of the response to the Royal Commission, Queensland now has two categories of such schemes in operation:

1. The Queensland Government has historically provided funding through its Diversion from Custody Program[300] to a number of diversionary centres that also provide cell visitor schemes in Brisbane and other larger cities in Queensland. The most consistent service has been that provided by Murri Watch Aboriginal and Torres Strait Islander Corporation, a community-based organisation, which from the time of the Royal Commission has provided a volunteer cell visitor scheme in Brisbane and other major regional centres.
2. The QPS administers a Part-Time Cell Visitor Scheme intended for operation in smaller centres where full-time programs are not available. (Although it is largely aimed at the Aboriginal and Torres Strait Islander communities, it can assist people from all backgrounds.)

   This scheme allows community members, on a voluntary basis, to visit people in police custody to provide comfort, support, advice and liaison with police. The QPS Part-Time Cell Visitor Scheme is described by the QPS as a 'desirable complement' to careful supervision of prisoners to meet the needs of prisoners (OPM 16.23).

298 All prisoners are provided with meals in the watch-house by police.

299 Our examination of the Aurukun watch-house register showed that police had arrested large numbers of people in December 2006, with several prisoners held for one or two nights before being released. In contrast, previously during 2006 very few prisoners had been held overnight.

300 Formerly administered by DATSIP.

The QPS submission to our inquiry acknowledges that this scheme has 'limitations' but states that it 'has proved effective in assisting police and detainees to make custody less stressful' (p. 13). The QPS acknowledges that the scheme is dependent on the commitment of local police and volunteers in the community and states that 'improved community support for the Cell Visitor Scheme would assist both police and detainees involved in the custody process' (submission of the QPS, p. 14).

The need for improved training for cell visitors has been identified in the past (see Johnston 1991, vol. 3, pp. 222 & 230). The QPS, in collaboration with others, including a large number of Indigenous service providers, has developed a comprehensive guidance document for cell visitors and diversionary centre workers, which is also available to police (Mackenzie undated).

In Queensland's Indigenous communities, few communities had a recognisable, functioning cell visitor program. An exception was Palm Island, which has a Cell Watch program run by the Palm Island Men's Group. The government response to the Acting State Coroner's comments in the Mulrunji inquest noted that it had approved $496 000 over three years for the program, commencing in June 2006 (Queensland Government 2006c). This Palm Island scheme received $66 007 in 2008. From January to June 2008 the service was said to have supported 84 clients (Nelson-Carr 2008b).

Elsewhere, cell visits apparently occurred on a semi-organised or ad hoc basis, using volunteers usually drawn from community justice groups. The involvement of community justice groups, however, was variable:

- In several communities, group members were said to visit prisoners when requested to do so by police. Community justice group coordinators advised that they were contacted by the police to arrange the visits on a fairly ad hoc basis or during 'court week'. Visits were said to be quite common during court week because of the numbers in the watch-house at that time, but also because of awareness about the low morale of those just sentenced to a term of imprisonment. We also heard that sometimes visiting Elders admonished prisoners in such circumstances for their offending behaviour.
- In some communities, the community justice groups did not have any role in visiting watch-house prisoners. Reasons for this included difficulties in arranging transport (members of one group were largely dependent on the police for transportation, but the police had few vehicles at their disposal),[301] the pressures on the group to perform a range of functions (see the further discussion in Chapter 17), and the everyday demands on individual members to meet family and other responsibilities. Several members of one group claimed that they had never been inside the watch-house.
- At Cherbourg we were advised that there had been a cell watch program at Murgon, but it had ceased. Both the local police and the community justice group members agreed that the program lapsed because there had been problems with the availability of volunteers. One Sergeant said that his experience had been that the scheme was very hard to organise and sustain over the longer term. Another officer explained that 'it burns people out and they end up not wanting to do it any more'. He went on to say that the only people interested in the role are elderly, and these people may have difficulty coping with the demanding hours and conditions of such programs. We also heard some general criticism from community members that police could have done more to support the program.

Community justice groups were largely in favour of having a role in visiting prisoners. Some were wary of cultural issues; for example, one member warned that 'if a relative is in custody it may be a problem'. It was generally agreed that care needed to be taken to ensure that the individual involved was an appropriate person to provide support.

301 Local police and the justice group advised us that police would assist justice group members with transport where possible, but police had only two vehicles, which were frequently needed for operational purposes.

It was frequently suggested during consultations that the sustainability of cell visitor schemes might be improved by paying visitors for the service. This is the model adopted in South Australia, where the Aboriginal Visitors Scheme has been in operation since 1989. The South Australian scheme operates only in Adelaide and larger regional centres and is not available in remote communities. In South Australia the police are obliged to contact the Aboriginal Visitors Scheme whenever they are keeping an Aboriginal person in a police cell. Although it may be that providing payment to cell visitors in South Australia has allowed for a reliable and sustainable program over a number of years (at least in the larger regional centres), it should also be noted that the costs of administering this scheme outweigh the cost of payments to visitors (pers. comm., senior officer of the South Australian Department of the Premier and Cabinet, 16 December 2008).

It was also suggested to our inquiry by South Australian police that under the SA scheme these community members could provide a further accountability mechanism in relation to police behaviour. However, those involved in the administration of the scheme clarified that its purposes were very much focused on improving care, comfort and communication for detainees, and any monitoring of appropriate police behaviour would be incidental to those roles (pers. comm., senior officer of South Australian Department of the Premier and Cabinet, 16 December 2008).

Though it appears that cell visitor schemes make a positive contribution, such schemes cannot ensure the health and safety of detainees. For example, in South Australia, deaths in custody have occurred even where there was involvement of an Aboriginal visitor under their scheme (Johns 2007).

Cell visitor schemes may be important in aiding communication between police and detainees, but to expect such schemes to provide another level of 'supervision' or 'accountability' for police in any formal sense is, in our view, expecting too much. Certainly such schemes may enhance the transparency of the police detention process and, given the volatility generated by some watch-house problems in many communities, this enhanced transparency can only help to improve relations between the community and the police. We also agree with the QPS view noted above, that cell visitor schemes are a desirable complement to the careful supervision of prisoners. However, as with family visits, the primary function of cell visits should be seen as the provision of care and comfort to detainees. Efforts should be made to ensure that cell visitor schemes are encouraged, but they may remain unsustainable unless levels of community commitment are high.

'Supervision' provided by community members

Many police and community members expressed support for the idea of having community members involved in the supervision of prisoners in the watch-house, including in the absence of police from the watch-house. However, it was universally recognised that, to ensure the service could be relied on, it would require a properly developed and resourced program to provide security vetting, adequate training and payment to the community members involved.

The only suggestion of this currently occurring was the information described above that some local police would have community police officers provide watch-house supervision when operational requirements demanded that QPS officers leave the watch-house while someone was detained there.

One experienced OIC in a remote community suggested that PLOs could be used under the new service delivery model to assist in providing watch-house supervision where necessary, saying: 'I think the idea has merit … I could use a PLO with those skills.' Some PLOs we spoke with in Brisbane, however, noted that this would be a radical departure from the current role of PLOs in regional and metropolitan areas, which is quite strictly focused on 'liaison'.

One submission noted that it was impractical to have community supervision and raised questions about legal liability in case of accident or death, or the failure to note or report an incident. The submission stated that police should take their duty of care more seriously, rather than rely on 'yet another group of volunteers' (submission of JCU Law School, p. 28). During our consultations, senior police also queried whether it was appropriate, or even possible, for police to divest their duty of care to prisoners to community members in any circumstances.

The information we have presented regarding the workloads of watch-houses in Queensland's Indigenous communities suggests that, in some communities at least, a scheme to enable community members to provide supervision in the watch-house would be useful regularly, or often. However, given the difficulties that have been encountered:

- in ensuring that police themselves are adequately trained and can meet the standard of care required to properly care for detainees
- in sustaining functional cell visitor schemes to provide care and comfort,

it is our view that the QPS should not delegate supervisory responsibilities to community members unless they are appropriately trained employees of the QPS.

We suggest that two sound options exist for community members to play a role in supervision in the watch-house:

1. Where the watch-houses may be busy enough, such as at Palm Island — by appointing and training local community members as full-time civilian watch-house assistants, as currently exist in some metropolitan and regional watch-houses. Such a strategy would also serve to increase the capacity of these stations to respond to calls for service and undertake preventive policing (see Chapter 9), and may also provide some administrative support to local police.
2. For Indigenous people in policing roles (see Chapter 10) — by providing them with the QPS training for watch-house assistants and regular opportunities for playing a role in supervision in the watch-house under the direction of the OIC. These Indigenous people in policing roles could then provide an extra resource to be called on when circumstances of operational necessity would otherwise require detainees to be left unattended.

Summary and conclusions: continuing to reduce the risks associated with watch-house detention

The number of deaths occurring in police watch-house cells has decreased dramatically in Queensland since the Royal Commission, but all such deaths remain tragic events that warrant the closest scrutiny.

The decrease in deaths has been accompanied by improvements in watch-house facilities and improvements in the standard of care provided to detainees after the Royal Commission's recommendations.

Watch-house facilities must remain a priority

In response to concerns raised by the Royal Commission, police services have given a great deal of attention to improving the standard of watch-house facilities. Nevertheless, issues relating to the standard of watch-house facilities have continued to arise, with a number of coronial inquests into deaths in police custody recommending further improvements.

We saw that the standard of watch-house facilities varied considerably in the Indigenous communities we visited — for example, a number of complaints and concerns were raised in relation to the watch-houses at Lockhart River, Murgon, Kowanyama and Pormpuraaw. A large number of people also raised concerns about the limited watch-house facilities in the Torres Strait Islands.

The Queensland Government and the QPS recognise that the standard of watch-house facilities in Queensland requires ongoing attention. The QPS has a continuous program of regular inspection of watch-house facilities in place, and other internal audits are carried out from time to time. Considerable sums of money have also been spent on the continuous program of replacement and upgrading of watch-house facilities. The provision of safe watch-house facilities, although expensive, remains an important priority if we are to ensure the safety of prisoners in police custody in Queensland.

Auditing and recording may improve care provided by police to detainees

Although police officers should not be expected to make a diagnosis of a prisoner's medical condition, they have an ongoing duty to assess prisoners in order to make decisions about whether a prisoner needs professional medical attention, special supervision or transfer to an appropriate facility.

As a result of the Royal Commission, health assessment forms are now to be completed for each prisoner in order to help police determine whether medical attention is required and assess a prisoner's level of risk when they are making appropriate detention and supervision arrangements. However, recent coronial inquests into deaths in police custody, including that of Mulrunji, show that adequate assessment of detainees' medical needs continues to be a problem. Subsequent to the recommendations made in the Mulrunji inquest, a new series of checklists has been introduced for conducting health assessments.

Our analysis of Western Cape York watch-house registers showed:

- police completed the required health assessment checklist for the vast majority of prisoners admitted
- where the checklist was not completed, it was often indicated that the prisoner was 'too intoxicated', 'refused' or was 'too aggressive' to answer the checklist questions
- about a third of the health assessments indicated that one or more 'risk factors' had been identified for the prisoner (such as a previous suicide attempt, treatment for a mental health problem, or alcohol or drug dependency).

Another key aspect of the care provided to detainees is the physical inspection and checking of prisoners. Again, improvements in this area have been made since the Royal Commission, but there are still difficulties with ensuring that adequate inspections are carried out by police.

Although our inquiry could not assess the frequency or adequacy of prisoner inspections carried out in watch-houses in Indigenous communities, the existing evidence from a number of deaths in custody shows a level of non-compliance with the OPM requirements for regular physical inspections of every prisoner.

Since our inquiry was announced, the electronic surveillance systems in watch-houses in Queensland's Indigenous communities have been upgraded to ensure digital CCTV coverage of all cells and public areas. The Queensland Government committed to the upgrade to protect officers against allegations made against them, and to provide additional protection and supervision for offenders in the watch-houses. However, there are limits to the effectiveness of electronic surveillance systems in ensuring that prisoners are safe. Even if it were the case that the constant monitoring of digital CCTV footage was possible, CCTV provides no information about prisoner safety when that person is motionless and only limited information when the person is non-verbal, which is another important aspect of any health assessment.

Although electronic surveillance systems are no substitute for inspections, they do provide a tool by which audits can be conducted to ensure that inspections of prisoners are made in accordance with QPS policies and procedures. Given the high risks associated with caring for people in watch-house custody, and the history of coronial inquests revealing a level of non-compliance with the policies, the QPS should take advantage of the new technology to conduct regular audits of the inspection regimes in Queensland's Indigenous community watch-houses.

➡ Action

That the QPS conduct a program of regular audits of police inspections of prisoners in cells by means of digital CCTV footage in order to determine the frequency of inspections being carried out in person, and the frequency with which verbal response is sought from those prisoners who are awake.

Some police officers we spoke to during our consultations admitted that prisoners are occasionally left unsupervised when other operational demands arise.

The current procedures recognise that a prisoner should not be left in custody unattended unless there are reasons of operational necessity, no suitable alternative exists and the risks have been assessed.

We recognise that, in practice, such justifiable circumstances may arise from time to time in remote communities. However, we also consider that these circumstances should be documented and that there should be close and careful monitoring of the circumstances that give rise to a prisoner being left unattended. Aside from the accountability this process provides, the information has clear implications for QPS assessment of staffing needs in Queensland's Indigenous communities.

➡ Action

That the QPS introduce a requirement that all incidents of a detainee being left unattended in a watch-house must be recorded and audited by the QPS.

Another option for the QPS to consider, in terms of its potential both to reduce the need for detainees to be left unattended and to improve the overall standard of care provided to detainees by police, would be to make an officer (or a watch-house assistant) from another place available in some locations on those days that are predictably busy days in the watch-house, such as court days.

Originally raised by the Royal Commission, the need for police officers to be able to competently provide resuscitation and first aid whenever appropriate continues to be an area of concern. The need for ongoing awareness and training of officers is already very clear.

Encouraging 'care and comfort' visits by community members

Community involvement in the watch-house can have important benefits for prisoner health and safety. It can provide moral support for prisoners, improve communication between police and prisoners, and increase the levels of trust and confidence that the community has in the police.

Currently where visitation is provided by family and friends, or through cell visitor schemes, it is principally focused on providing 'care and comfort'. It is our view that this focus is appropriate; visitors should see their primary role as providing such care and comfort — that is, to boost morale.

The 'training' needed by such visitors is minimal. It should be enough to give visitors a clear understanding of their role and for them to be made aware of the vital importance of providing police with any information they obtain from a prisoner that is relevant to police making an accurate health assessment.

Given the possible benefits to prisoners of contact visits providing 'care and comfort' from family and friends, and the positive effects this can have on police and community relations, police in Queensland's Indigenous communities should continue to do all they can to facilitate such contact visits, where appropriate.

Cell visitor schemes in Queensland's Indigenous communities are currently mostly informal, rather ad hoc and possibly unsustainable. The success of such schemes is subject to there being adequate commitment and time available on the part of local police to coordinate and supervise visits, and commitment by community members to undertake such visits. We agree with the QPS that such schemes are a desirable complement to the careful supervision of prisoners and that, like family visits, they can enhance the transparency of the police detention process. Given the volatility generated by alleged watch-house problems in many communities, this enhanced transparency can only help to improve relations between the community and the police.

Although we support such schemes, it is our view that the workload for organising and implementing such a scheme should not fall upon the OIC of the police stations in these communities. Rather, someone within the community should be a point of contact for the police and that person should be responsible for contacting willing community members and organising cell visits when necessary. Our proposal is that the community justice group coordinator and/or members be responsible for coordinating the cell visitor scheme in those places where there is community support for such a scheme. However, recognising the heavy workload that these groups already face, we propose in Part 4 of this report that:

- the role and functions of community justice groups be reviewed
- the presence of various local justice initiatives in each community and the responsibilities of police, councils, justice groups and community members be included in a community-specific local justice agreement (see Chapter 17).

➡ Action

That the review of the roles and functions of community justice groups proposed in Chapter 17 specifically consider the extent to which the community justice group coordinator and/or members can contribute to the provision of a sustainable cell visitor scheme in each of Queensland's Indigenous communities.

Viable options for community involvement in supervising detainees

Given the risks involved in monitoring prisoners in watch-houses, especially those prisoners with health problems, the difficulties that have been encountered in ensuring that police themselves are adequately trained to properly care for prisoners, and the difficulties in sustaining a cell visitor scheme in many of these communities, it is our view that the effort required to implement and sustain a system of civilian monitoring of prisoners would outweigh any benefit unless these community members are employed and appropriately trained by the QPS:

- as full-time civilian watch-house assistants, as exist in some other locations in Queensland
- in Indigenous policing roles, so that they could regularly play a part in watch-house supervision and in circumstances of operational necessity could perform this role in the absence of QPS police officers.

➡ Action

That the viable options for involving community members in the supervision of watch-houses in Queensland's Indigenous communities are:

- in some stations where the watch-house workloads warrant it, employing local community members as civilian watch-house assistants on a permanent basis
- training Indigenous people in policing roles to perform a watch-house assistant role in Queensland's Indigenous communities; it is then possible that they could provide supervision to prisoners in the absence of police where such absence is a matter of operational necessity.

Part 4:

How can we optimise the use of resources in delivering criminal justice system services?

This part of the report deals with our inquiry's third term of reference, addressing the question of what should be done to ensure the optimal use of existing and future resources in delivering criminal justice services in Queensland's Indigenous communities.

The crime problem in Queensland's Indigenous communities is both entrenched and endemic. It is also costly. Not only does the crime problem in these communities carry a tragic human cost, but it also imposes a large financial burden that is principally borne by the Queensland Government. These costs continue to increase. For example:

- In recent years, increasing amounts of money have been provided for additional legal aid, additional training and support for community justice groups, and more frequent circuit courts to the Gulf, Cape York and the Torres Strait Islands. For example, in Queensland's 2007–08 Budget, funding of $3.3 million was allocated for these purposes (see Queensland Government 2007d).[302]
- In recent years the Queensland Government has provided record levels of funding to Queensland Corrective Services (QCS), including large amounts devoted to the expansion of those correctional centres that are well known for their high proportion of Indigenous prisoners from Queensland's Indigenous communities. For example:
  - the Townsville Correctional Centre has been undergoing a $142.5 million refurbishment and expansion by over 100 cells, and this is scheduled for completion in 2009
  - a new Townsville Women's Correctional Centre, to accommodate up to 154 offenders and costing $130 million, opened in December 2008
  - a $445 million, 300-bed expansion for the state's most northern correctional centre, Lotus Glen Correctional Centre, is under way, with completion scheduled for 2011 (QCS 2008).

  QCS states that these expansions 'are central to our strategy for managing expected growth in prisoner numbers in the region' (QCS 2008, p. 4). In addition to the cost of facilities, the cost of imprisonment per prisoner per day in Queensland is over $150 (QCS 2008, p. 17).

If Indigenous overrepresentation in the criminal justice system is to be reduced, we must respond to the crime problem faced by Queensland's Indigenous communities more effectively than we have in the past. The crime problem in turn cannot be redressed by a policing and criminal justice system response alone. If we hope to tackle crime in a way that will make a substantial difference, then we must tackle the underlying causes of crime at every opportunity and we must be prepared to be bolder and more rigorous in identifying successes and failures than we have been before.

302 Funds to provide additional support to community justice groups were not allocated exclusively to support groups in Queensland's Indigenous communities but included funds for groups in other regional and urban areas.

In this part of the report we argue that, if the use of criminal justice resources is to be optimised, crime prevention must be an explicit focus of the strategies and resources devoted to Queensland's Indigenous communities in two ways:

1. Outside the criminal justice system, including through various types of early intervention
2. Within the criminal justice system, at all possible stages.

Crime prevention is, however, not the only function of the criminal justice system; resources must also be allocated to ensure delivery of a fair and accessible system of justice, and this is the third key issue considered in this part of the report.

The four chapters of this part consider these matters:

- Chapter 15 examines the research evidence showing that the crime prevention achievements of the criminal justice system are likely to be more limited and less cost-effective than crime prevention work done well *before* a person comes into contact with the criminal justice system, preferably early in life. We consider that two key areas where the strategies for prevention of crime and violence operating in Queensland's Indigenous communities should be strengthened are:
  1. Providing developmental or early childhood interventions to prevent criminal behaviour later in life
  2. Developing media and social marketing campaigns to change social values and behaviours.
- Chapter 16 examines research evidence for the crime prevention effects of aspects of the criminal justice system, and suggests how we might maximise the crime prevention effect of the criminal justice system for Queensland's Indigenous communities.
- Chapter 17 examines the unrealised potential of local justice initiatives to provide an effective response to crime and violence in Queensland's Indigenous communities.
- Chapter 18 considers what is required to ensure that the operation of the criminal justice system in these communities is fair and accessible.

In terms of the crime prevention research discussed in this part, we have relied heavily on two sources. First, Don Weatherburn provided a brief summary of the research evidence regarding crime prevention from an Australian perspective in his book *Law and order in Australia: rhetoric and reality* (2004). More recently, Farrington and Welsh have provided a summary of the research evidence regarding crime prevention in *Saving children from a life of crime: early risk factors and effective interventions* (2007). We have drawn heavily from these works in the material that follows, as well as considering more recent research, particularly Australian research. Of course, any errors are our own and what we present is only a very greatly attenuated version of this complex area of research. For those interested in a greater level of detail, and an introduction to various methodological issues facing research in this area, we suggest they read the works of Weatherburn and of Farrington and Welsh. For more technical research details, we suggest that readers go back to the primary sources.

15

CRIME AND VIOLENCE PREVENTION OUTSIDE THE CRIMINAL JUSTICE SYSTEM

In this report we have outlined our view that in order to improve relations between Indigenous people and police, and in order to reduce Indigenous overrepresentation in the criminal justice system, we must make serious inroads into reducing the levels of crime and violence in Queensland's Indigenous communities. Only by doing so will we be able to optimise the use of criminal justice resources, which will otherwise continue to be in increasing demand.

Efforts to date both outside and within the criminal justice system to prevent crime and violence in communities have let Indigenous people down.

As discussed in Chapter 5, the underlying causes of crime are complex. Crime is not the result of any one factor; it is shaped greatly by the interrelationship of a large number of factors that the criminal justice system does not control (for example, the prevalence of inadequate parenting, and the level of poverty and unemployment). This means that to prevent crime and violence a mix of strategies will be needed.

We will look first at crime prevention outside the criminal justice system. In this chapter we bring together:

- **research evidence about the crime prevention effect of various intervention strategies and programs outside the criminal justice system, including:**
  - **developmental or early intervention strategies**
  - **media and social marketing campaigns, and**
- **information about existing strategies and programs in Queensland's Indigenous communities.**

What is crime prevention outside the criminal justice system?

All crime prevention schemes can be broken down into two broad categories:

1. Opportunity reduction — approaches that concentrate on reducing the situational,[303] physical or environmental opportunities for crime
2. Social crime prevention — approaches that seek to address underlying social causes.

We have drawn a distinction between crime prevention programs and strategies outside the criminal justice system[304] and those that operate within it[305] (which we will discuss in Chapter 16).

303 Situational crime prevention strategies are those that increase the risk of apprehension and reduce the rewards associated with crime. Sometimes 'opportunity reduction' and 'situational crime prevention' are terms used interchangeably in the literature, and sometimes a distinction is drawn between 'situational crime prevention' and 'crime prevention through environmental design', which is also an opportunity reduction strategy (see Sutton & Hazlehurst 1996, p. 436).

304 Such programs and strategies could also be referred to as 'primary' and 'secondary' crime prevention. Primary prevention programs try to ameliorate the social and physical conditions that seem to be causing crime. Secondary prevention programs are interventions aimed at 'at risk' groups.

305 Such programs and strategies can also be referred to as 'tertiary' crime prevention, which comes into effect once a crime has been reported or a criminal career has already become entrenched (Sutton & Hazlehurst 1996, p. 421).

Crime prevention outside the criminal justice system encompasses strategies and programs that are delivered independently of the police, courts and correctional services, and that attempt to stop offending before it begins.

Generally, money spent on effective crime prevention programs outside the criminal justice system will have a greater impact than money spent on programs and strategies within the criminal justice system itself.

What have previous reports suggested?

From the late 1980s onwards, there has been increasing acknowledgment in Queensland and across Australia of the need for crime prevention approaches apart from those provided by the criminal justice system. Many previous reports have highlighted that a range of strategies, beyond the operation of the criminal justice system itself, are needed to prevent crime and to address the underlying causes. For example:

- The Royal Commission into Aboriginal Deaths in Custody recommended a wide range of strategies to address the underlying causes of crime, including through:
  - expanding mental health services
  - limiting the supply of alcohol and providing alcohol treatment programs
  - developing preschool programs for Indigenous children that also involve parents and carers
  - improving employment opportunities (Johnston 1991, vol. 4).
- The report of the Aboriginal and Torres Strait Islander Women's Task Force on Violence recommended that both short- and long-term crime prevention strategies be developed in partnership with communities. It recommended, for example, the introduction of parenting programs for all Aboriginal and Torres Strait Islander communities in Queensland (Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999, pp. 156 & 258).
- The Cape York Justice Study recommended that community-based crime prevention and intervention strategies should be implemented to address the underlying causes of crime, especially the role of alcohol. It also suggested that a developmental approach to crime prevention was needed, focusing on pathways in life that may lead to crime or to positive alternatives. The report argued that a brief 'hit and run' would not be effective — that adequate resources must be devoted to crime prevention and that efforts must be sustained over a long period (2001, p. 123).[306] Although the report stated that such an approach was 'an apparently impossible ideal' at the time, it also stated that developmental crime prevention should be the goal not only for crime and justice agencies but for all other government and non-government departments to move towards.
- The evaluation by Cunneen, Collings and Ralph of the Queensland Aboriginal and Torres Strait Islander Justice Agreement argued that resources must be provided for more rehabilitation centres, healing centres and alcohol counselling (2005, pp. 158–9).

What has been the response?

The Queensland Government has implemented various measures in response to such recommendations about crime prevention; the most substantial of these responses have been:

1. Although alcohol reforms directed toward limiting the 'supply' of alcohol in Queensland's Indigenous communities were introduced in 2003, it is only in recent years that other steps have been taken to reduce the 'demand' for alcohol; funds have now been allocated for treatment and rehabilitation programs to be delivered in these communities.

306 The Cape York Justice Study also suggested that community justice agreements and community justice groups were to play vital roles in crime prevention (Fitzgerald 2001).

2. The trial, from 2008, of the Cape York Welfare Reform initiative and the Family Responsibilities Commission (FRC) in the four communities of Hope Vale, Mossman Gorge, Coen and Aurukun. The trial aims to change local social norms and behaviour and to re-establish local Indigenous authority. A range of support services have been and are being rolled out in these four communities as part of the trial. They include enhanced parenting services, services to deal with problem gambling, and Wellbeing Centres to provide counselling and support for people affected by, and trying to cope with, problems of drugs, alcohol, gambling or violent behaviour.[307]

As we have stated in Chapter 2, other than these two recent initiatives, which are substantial and positive steps, there has been considerable difficulty in translating the rhetoric about crime prevention into reality. Crime prevention has too often remained an 'add on'; crime prevention priorities and strategies remain poorly developed and are often unclear. The emphasis has remained largely on reactive criminal justice.

What crime prevention strategies outside the criminal justice system are in operation?

Crime prevention strategies outside the criminal justice system in Queensland's Indigenous communities have tended to be dominated by strategies designed to limit the opportunities for crime, and by community-based programs such as sport and recreation programs, and camps and support for outstations.

Opportunity reduction

Strategies or programs organised by the community that are designed to limit the opportunities for crimes to be committed, or to increase the risk of apprehension for offenders, include:

- **Night patrols:** Community or night patrols were discussed in Chapter 10 of this report. They operate from time to time in some of Queensland's Indigenous communities and it appears that the Queensland and Australian Governments have been increasingly willing to allocate resources for such patrols in recent years.
- **CCTV:** In some Indigenous communities, CCTV cameras are being used as a crime prevention tool. For example, in Aurukun, the local council in 2008 established a network of CCTV cameras operated by a private security firm to provide surveillance of council property and businesses. Media reports stated that the council was hoping this initiative would 'reduce violence and vandalism' and help police to identify and prosecute offenders, particularly young people committing break and enters (see Guest 2008; Pitt 2008).
- **Safe houses:** Although these are primarily part of the child protection system, the Queensland Government has stated that it has spent around $60 million building safe houses in Indigenous communities to keep children safe in their own communities when they have come to the attention of the Department of Child Safety (now DOC Child Safety Services) (QLA (Keech) 2008a, p. 2). For example, $14.6 million was allocated over four years to the establishment and running of four safe houses at Aurukun, Kowanyama, Napranum and Pormpuraaw.[308]

307 The State and Commonwealth Governments have recently called for tenders to conduct an evaluation of this FRC trial; however, the results are unlikely to be available for a number of years.

308 The Queensland Government has also stated that it is 'committed to moving forward and investing in plans and preventative programs that will help address social issues that cause abuse and neglect' (QLA (Keech) 2008b, p. 3180).

The crime prevention effect of the strategies listed above is largely untested and unknown. That is, although it may appear to be a reasonable assumption that such strategies will lead to a reduction in crime, there is no sound evidence base provided through research to show that these strategies are likely to have a significant crime prevention effect.[309] For example:

- Night patrols are a strategy unique to Indigenous communities and, though it is often suggested that they have a positive crime prevention effect, there has been no rigorous evaluation, so their crime prevention effect must be considered to be unknown. As we have stated in Chapter 9, there is evidence that increasing police patrols can prevent crime, so community patrols in this sense might be a relatively inexpensive strategy worth continuing for a range of reasons, one of which may be their possible crime prevention effect (see Blagg & Valuri 2003; Blagg 2008). Night patrols may also be effective in enhancing local authority, and form one of the local justice elements operating in a community.
- A review of 44 studies that investigated the effectiveness of CCTV cameras in public spaces indicated that the introduction of CCTV may have a modest effect in reducing crime (Welsh & Farrington 2008a). The review noted, however, that CCTV tended to be most effective when it is actively monitored, and when used in car parks and to target vehicle crime. In general, CCTV led to smaller reductions in violent crime and crime in town centres and public housing estates. The studies showing the most positive crime prevention effects also tended to involve a range of other interventions, and few studies involved long-term evaluations of effectiveness. It is possible, therefore, that CCTV cameras used in isolation from other measures may result in only short-lived crime reductions (Welsh & Farrington 2008a; see also Cherney & Sutton 2007). A recent Queensland study that analysed QPS data to assess the effectiveness of CCTV concluded: 'CCTV is effective at detecting violent crime and/or may result in increased reporting as opposed to preventing any type of crime' (Wells, Allard & Wilson 2006, p. 14).
- We are not aware of any evidence regarding the crime prevention effect of safe houses. Although they may not exert a substantial prevention effect, safe houses may in any case be an important or necessary feature of a humane and ethical response to child protection and violence in Queensland's Indigenous communities.

Although opportunity-reduction strategies are a necessary part of the mix of crime prevention strategies needed in Queensland's Indigenous communities, it should be noted:

- All of these opportunity-reduction crime prevention programs are very much a 'back-end' rather than 'front-end' approach to crime prevention. That is, they direct resources and effort to the point at which offending is likely to occur or, in the case of safe houses, to the period after a child protection problem has emerged.
- Approaches that reduce the opportunities and incentives for offending may be most likely to be effective in reducing transient rather than persistent offending (Weatherburn 2004, p. 75). This highlights the importance of including other types of crime prevention strategies for Queensland's Indigenous communities, which may have a high proportion of persistent offenders.[310]

309 It should be noted that such programs may, of course, have other important outcomes in addition to any crime prevention outcome. Such other outcomes may include reducing fear of crime, rebuilding social norms and developing community capacity to respond to crime.

310 In Chapter 4 we presented evidence not about persistence, but suggesting a high proportion of recidivist offenders in Queensland's Indigenous communities.

Community-based social crime prevention

Outstations, camps, arts, after-school sport and recreation programs

A popular form of crime prevention program operating in Queensland's Indigenous communities are community-based programs that may seek to strengthen cultural identity or otherwise engage with young people through outstations, camps, arts, after-school sport and recreation programs. Such programs assume that, by strengthening the social fabric of these disadvantaged communities, or by providing young people with something to do, crime may be reduced. These types of programs appeal for a range of reasons, including that recreational facilities are often in short supply or are poorly maintained. However, such programs are usually small scale, supported by one-off funding and short-lived.

Unfortunately, there is not much evidence to suggest that community-based social crime prevention is effective. For example, one evaluation of an after-school activities program for disadvantaged 5–15-year-olds in Canada showed that arrest rates of those in the program were substantially lower than for a comparable control group, but the effects faded over time and the study has not been convincingly replicated elsewhere (see Welsh & Hoshi 2001).

Weatherburn (2004, p. 190) speculates that:

> Part of the problem may be that it is extremely difficult changing the behaviour of people for whom crime is an important source of income and social standing among their peers. Part of the problem, too, may be that simply keeping young people 'busy' or providing them with better training and social services may not do much to restore their stake in conformity unless these things make a difference to the chance of getting a reasonably well-paid job. It is also possible that social disorder so obvious in crime-prone communities does not stem from inadequate social services, lack of social cohesion or lack of adequate recreational opportunities for young people, but from endemic problems of poor parenting brought on by poverty, substance abuse and unemployment. If this is true, measures designed to strengthen local communities, provide recreational activities for young people or talk them out of involvement in crime are unlikely to exert much effect.

That is, community-based programs which seek to strengthen cultural identity or otherwise engage with young people through outstations, camps, arts, after-school sport and recreation programs may simply not provide the right 'fit' or an adequate 'dose' for the nature and size of the crime and violence problem in these communities.

Community justice groups

The community justice groups that exist in all Queensland's Indigenous communities perform a wide range of functions, including the development and implementation of strategies 'to deal with fundamental social issues which are often the cause of offending behaviour' and to deal with 'the underlying causes of crime' (DATSIPD 1999, pp. 5 & 7; see also Chantrill 1998). Such strategies have included sport and recreational activities for young people, the use of outstations for young people and conducting mediations within the community. We discuss the effectiveness of community justice groups in detail in Chapter 17.

Other community-based social strategies for crime prevention

One innovative strategy that aims to tackle the underlying causes of crime is the Work Placement Scheme established by Cape York Partnerships and Milton James in April 2005.

The Work Placement Scheme helps young Indigenous people from remote northern communities who are willing and able to leave their home and community to work in southern states. The scheme provides them with a placement of at least seven months in mainstream unsubsidised employment, onsite support and supervision, rental accommodation, and transport to and from their place of employment at cost. This scheme provides work, far from

their homes and families, to those with little or no experience of living away from home, family and community, with little or no work experience (and thus assessed as being at high risk for long-term unemployment), or to those dependent on welfare payments. Sutton (2009, p. 53) has noted that such schemes are experimental in terms of Australian Indigenous policy and programs, but that due to the lack of follow-up we cannot know if the scheme was successful.

The evidence of the crime prevention effect of strategies that seek to prevent crime by reducing poverty or increasing employment is scant because policies and programs aiming to reduce poverty, or promoting work over welfare, often do not lend themselves to rigorous experimental evaluation. For example, although long-term unemployment is clearly a risk factor for involvement in crime, according to Weatherburn (2004, p. 194) there are no published evaluations of the effect on crime of programs designed to reduce long-term unemployment. A more recent systemic review of non-custodial employment programs concluded that employment-focused interventions for former prisoners have not been adequately evaluated for their effectiveness and calls for rigorous evaluation to assist policy development in this area (Visher, Winterfield & Coggeshall 2006).

Hence, some have expressed doubts that we can reduce crime through anti-poverty measures.[311] However, one review of the crime prevention effectiveness of various types of programs aiming to increase the levels of employment among young people found that the results of a 30-month evaluation of the US 'Job Corps' program were promising. This program involved disadvantaged young people being enrolled in tailored one-year programs, including classroom training in basic education, vocational skills and a wide range of supportive services (including health care). A comparison of outcomes for program participants and those randomly assigned to a control group revealed that the program was associated with a significant 16 per cent reduction in arrest rates in the two-year follow-up period (Schochet, Burghardt & Glazerman 2001). Significantly more positive outcomes for the Job Corps participants were also found when conviction and incarceration rates for the two groups were examined. Weatherburn argues that 'these kinds of programs deserve serious consideration in Australia, especially in Aboriginal communities' (2004, p. 195).[312]

Because the spatial concentration of poverty appears to exert its own effect on crime, it seems reasonable to assume that preventing this concentration will reduce crime. There are no published evaluations of the crime prevention effect of any such strategies (see Weatherburn 2004, pp. 195–6). However, the Work Placement Scheme referred to above may exert a crime prevention effect by encouraging young people to 'orbit' out of, and into, Queensland's Indigenous communities.

311 For example, an evaluation of the impacts of the US Job Training Partnership Act (JTPA) — which involved providing job training and job-search assistance to people facing barriers to employment — found *higher* rates of arrest among JTPA participants than among those randomly assigned to a control group (Bloom et al. 1994). Similarly, the US 'War on Poverty' in the 1970s, which involved a massive program of financial aid and job training, was accompanied by a substantial increase in reported rates of many crimes. However, caution must be exercised in interpreting this evidence, as it may simply demonstrate that poverty is not the only cause of crime (see the discussion in Weatherburn 2004, pp. 190–3).

312 A more recent evaluation of the Job Corps program (Schochet, Burghardt & McConnell 2006) indicated that initial earnings gains for program participants were generally only sustained in the long term (5 to 10 years after random assignment) for those participants aged 20 to 24 at the beginning of the program. It is possible that a similar pattern may emerge over the long term for those criminal justice outcomes discussed above. This 2006 evaluation also raised questions about the cost-effectiveness of the program for younger participants, given the disappearance of their earnings gains over time. The authors concluded that rectifying this was a key challenge in need of policy consideration.

What crime prevention strategies outside the criminal justice system are lacking?

There is an obvious and continuing gap in the crime prevention strategies in operation outside the criminal justice system in Queensland's Indigenous communities in the following two areas:

1. Developmental or early childhood interventions; such strategies are aimed at targeting risk and protective factors early in life in individuals, so as to prevent criminal offending later in life.
2. Media and social marketing campaigns; these strategies aim to change social values and behaviours.[313]

There is evidence that some of these types of programs or strategies are able to have a substantial crime prevention effect. What follows is a summary of research regarding 'what works' and 'what's promising' in preventing crime through early intervention programs, and also a description of the evidence regarding the crime prevention effect of media and social marketing campaigns.

Developmental or early childhood interventions

What is the evidence about effective early interventions?

The aphorism that 'prevention is better than cure' is very clearly demonstrated by the research evidence on the effectiveness of early intervention, compared with later criminal justice system processes or treatment, in terms of promoting law-abiding behaviour. Research evidence demonstrates that, although interventions at any point in life may lead to beneficial outcomes, interventions undertaken early on are more effective at promoting wellbeing and competencies than interventions undertaken later in life.

Developmental research also clearly demonstrates that in large part we do not learn to be violent and antisocial — we learn how not to be (Tremblay et al. 2004). This highlights the importance, particularly early in life, of parenting which ensures that young children are taught appropriate behaviours and social skills in order to prevent violent and antisocial behaviour later in life.

Early childhood provides a unique window of opportunity in terms of prevention in that:

- There is considerable continuity between disruptive and antisocial behaviour in childhood and later offending. Programs that have short-term effects on disruptive or antisocial behaviour of children are likely to have long-term effects on offending (Farrington & Welsh 2007, p. 117).
- Risk factors tend to be similar for many different adverse outcomes, including violent and non-violent offending, mental health problems, alcohol and drug problems, school failure and unemployment. Therefore, a prevention program that succeeds in reducing a risk factor for offending will, in all probability, have wide-ranging benefits in reducing other types of social problems as well (Farrington & Welsh 2007, p. 95).

There is now a body of empirical evidence on the effectiveness of early intervention programs designed to tackle the risk factors associated with crime and prevent delinquency and later offending. This body of research shows that the lives of children can be improved by:

- certain kinds of childcare and preschool programs (but not all)
- methods of teaching parents how best to raise their children, and appropriate support for this
- home visitation programs run by professional nurses
- particular school programs that teach students how to achieve greater self-control (Wilson 2007, p. vi).

313 Both of these types of strategies are forms of social crime prevention.

Home visiting

Education and support in the context of home visiting programs for parents and carers of infants have also been shown to be effective in preventing child antisocial behaviour and delinquency (Farrington & Welsh 2007, p. 160). Such programs, delivered by health professionals such as nurses, are typically less behavioural than those discussed above and mainly provide advice and guidance to parents or general parent education. The nurse home visitation model developed by Professor David Olds in the United States has been particularly influential. It has been shown to be an effective early intervention in terms of delinquency and to have other positive outcomes (Olds et al. 1998).

Effective home visiting programs are intensive in the early months, are linked to other resources where appropriate, are initiated by nurse home visitors, are sustained over the first two years, have strategies clearly linked to risk factors and expected outcomes, and have well-trained and mentored staff. Home visiting services appear to be best delivered as part of a broad set of services for families and young children (Government of South Australia 2005).

Parental management training

Another well-known early intervention program to have measured the effects on crime is the Montreal Longitudinal-Experimental Study conducted by psychologist Richard Tremblay and colleagues (1995, 1996). This program was targeted at disruptive boys aged 7–9 from low socio-economic backgrounds. It taught parents how to monitor their child's behaviour and reward them for being good, how to discipline their children effectively without being abusive and how to deal with family crises. The children received daily training sessions designed to teach them how to play and interact successfully with their peers. Later, the boys in the program were given additional sessions with counsellors to boost their problem-solving skills and self-control in conflict situations. The program lasted two years. Annual follow-up to the age of 15 years showed that, when compared with a control group, the boys who participated in the program committed significantly fewer offences (Farrington & Welsh 2007, pp. 114–15).

Consistent with these findings for specific programs, a review by Piquero et al. (2008) of 55 randomised controlled evaluations concluded that early family and parent training programs[314] in general were effective in reducing behavioural problems such as aggression and antisocial behaviour among young children. The authors indicated that such programs may also be effective in preventing delinquency and crime in adolescence and adulthood, although they noted that more long-term evaluations are needed.

Preschool programs

The most famous of the preschool programs shown by research to have a significant crime prevention effect is the Perry Preschool project carried out in Michigan by Lawrence Schweinhart and David Weikart (1980, cited in Farrington & Welsh 2007). This program was targeted at disadvantaged African-American children aged 3–4 years and provided the experimental group with a high-quality, active learning preschool program, supplemented with family support. The children in the program attended preschool lessons designed to teach them such things as reasoning, self-discipline, how to set and achieve goals and how to play and work cooperatively with other children. Once a week, a teacher visited the parents of these children to give advice on parenting and to provide practical and emotional support. Depending on the child, the program lasted between three and five years.

314 These involved a number of approaches, but frequently focused on teaching parents how to appropriately and effectively monitor and discipline their child's behaviour, encouraging parents to become more involved in their child's schooling and improving the parent–child relationship.

The children involved in the Perry project have now been followed-up to the age of 40 years. These follow-up studies show, in the words of one researcher, that 'By almost any measure we might care about — education, income, crime, family stability — the contrast of those who didn't attend Perry is striking' (cited in Farrington & Welsh 2007, p. 112). Compared with the control group, program group members had significantly fewer arrests for violent crime, property crime and drug crimes, and were significantly less likely to be arrested five or more times. A cost–benefit analysis at age 40 found that Perry produced just over $17 of benefit per dollar of cost, with 76 per cent of this being returned to the general public — in the form of savings in crime, education and welfare, and increased tax revenue — and 24 per cent benefiting each program participant (Farrington & Welsh 2007, p. 112).

Other similar preschool programs have also been shown to have positive results over the long term (see Farrington & Welsh 2007, pp. 112–14). However, there is evidence indicating that 'research and demonstration projects' — which are run intensively on a small scale, funded at higher levels and run by more highly trained staff — show stronger evidence of more favourable long-term effects than similar large-scale, routinely provided programs (see Farrington & Welsh 2007, pp. 108–9).

School and community-based programs

Farrington and Welsh conclude that 'a number of school-based interventions have been found to be effective in preventing delinquency among youths in middle school and high school, while after-school and community-based mentoring programs hold promise as efficacious approaches' (2007, pp. 4–5).

The famous Seattle Social Development Project of David Hawkins and his colleagues (1999) is one example demonstrating that early school-based programs can produce benefits. This program combined parent training, teacher training and skills training targeted at Grade 1 children (aged 6). The Seattle program parents were trained to notice and reinforce socially desirable behaviour in a procedure called 'Catch them being good'. Teachers in the experimental classes were trained to teach and manage the students in ways that promoted the attachment between children, their family and their school. The program continued from Grade 1 to Grade 6. Follow-up studies to the age of 18 showed that, in comparison with the control group, the experimental group had higher levels of academic achievement, less heavy drinking and lower rates of self-reported violence.

There is evidence that programs offering coaching and modest cash and scholarship incentives to increase teenagers' motivation to complete Year 12 have worked to produce both higher school completion rates and lower rates of offending. With the Ford Foundation's 'Quantum Opportunity' program in the United States, for example, rates of arrest for those participating in the program were only three-tenths of those of a control group of students. The program has also been shown to be highly cost effective (Weatherburn 2004, p. 186).

Programs that monitor and reward school attendance by students at risk of truancy have also been shown to be effective in preventing truancy and preventing juvenile involvement in crime. For example, one program involved participants meeting with program staff weekly and earning points for attendance that could be exchanged for a class trip of their choosing. An evaluation showed that, five years after the program ended, children in the experimental group were 66 per cent less likely to have a juvenile criminal record than their control group counterparts (Weatherburn 2004, p. 187).

Farrington and Welsh (2007, p. 154) also considered research regarding the effectiveness of after-school and community-based mentoring programs designed to promote prosocial behaviour. Such programs include after-school sports programs and 'big brother, big sister' mentoring programs in the United States. Farrington and Welsh (2007) concluded that there were a small number of high-quality programs that demonstrate evidence of success in preventing delinquency, and that each of these approaches is therefore 'promising'.

Additional support for the effectiveness of mentoring programs was provided by Tolan, Henry, Schoeny and Bass (2008), who reviewed 39 high-quality evaluations of mentoring programs for juveniles 'at risk' or already involved in delinquency. They found that, overall, mentoring had significant positive effects on delinquency, aggression, drug use and academic achievement outcomes. Particularly strong effects were found for delinquency and aggression outcomes, as well as when mentoring involved a focus on providing emotional support and when professional development was a key motivation for mentors. Still, the authors noted that there was a distinct lack of information about what the mentoring programs involved, making it difficult to draw conclusions about what are the most valuable and effective features of mentoring.

To summarise the evidence regarding the effectiveness of early intervention, the largely overseas research described above has shown that, in terms of early intervention, giving support to families and advice on parenting, particularly in the first few years of a child's life, can greatly reduce the risk that they will be involved in crime as teenagers or adults. Weatherburn provides the following summary:

> Successful programs … tend to provide support and training to both the parent and the child. They tend to involve both the family and the school. They require a very substantial amount of direct contact (e.g. 30–40 hours) between the program staff and the family. They also have to be delivered by well-trained staff with personal experience working with children as a parent or a childcare provider. (Weatherburn 2004, p. 183)

How can we build early intervention efforts in Queensland's Indigenous communities?

It is true that, across Australia, governments and others have increasingly responded to the evidence regarding the effectiveness of some early interventions, although information provided in consultations and submissions suggests that there is a lot further to go in Queensland's Indigenous communities. There are some positive recent developments, which we outline below, that provide a sound basis for strengthening such crime prevention approaches in Queensland's Indigenous communities.

Home visiting

The point was strongly made to our inquiry that, by the time children in these communities reach school age, it is in a sense 'too late' to start exerting a powerful positive influence. Yet in Queensland's Indigenous communities there is little provided in terms of proactive support for parents and carers in the earliest years of a child's life.

In South Australia, a family home visiting scheme was introduced in 2004 for families of newborns. The scheme is based on that developed by Professor David Olds referred to earlier and provides a nurse visitation to all families in the first four weeks of an infant's life. Extended family home visiting services are offered on a more targeted basis, including to all Indigenous families, up to the age of 2 years. The South Australian program has been rolled out across that state in phases over a number of years and will be statewide by July 2010. The South Australian family home visiting service is being evaluated in both metropolitan and country areas and outcomes for Indigenous families will form part of this evaluation.

More recently, the Australian Government has also developed a program based on the research of Professor Olds. The government announced that it will fund the nurse home visiting program for Indigenous children at ten sites across the country as part of its allocation of $260 million to closing the life expectancy gap and improving the health of Indigenous women and children. The Wuchopperen Health Service has been funded to provide this service in Cairns and the surrounding regional towns, but this does not include Queensland's Indigenous communities (Roxon 2008).

However, the development of a program to provide similar home visiting services for some Cape York Indigenous communities is in the early stages:

- The Queensland Government announced that a home visiting initiative is being implemented for some Indigenous families as part of a 'trial' of maternal and child health enhancements. It has allocated $1.5 million to deliver 'new intensive home visits' and 'parenting' programs' in four Cape York communities, in partnership with the Apunipima Cape York Health Council (QLA (Bligh) 2008, p. 3175).
- The Australian Government has also provided funds for maternal and child health enhancements to be provided by Apunipima to other Cape York communities, including those that form part of the Cape York Welfare Reform Trial.

The model being developed by Apunipima for home visits in Cape York communities departs from Professor Olds's model of nurse home visiting services. Apunipima proposes to have Aboriginal health workers, rather than registered nurses, at the forefront of any home visiting services (although these health workers may be accompanied from time to time by other health professionals). There are powerful reasons for favouring such an adaptation to the home visiting model; these include that such an approach helps to:

- build Indigenous ownership and control
- build Indigenous capacity
- provide employment to Indigenous people (pers. comm., Apunipima Cape York Health Council, 18 May 2009).

However, there is research evidence suggesting that home visits produce more positive outcomes when they are provided by nurses rather than allied health professionals. For example, a randomised controlled trial of a home visiting program by Olds and his colleagues (Olds et al. 2002, 2004) has generally indicated that more positive outcomes, particularly for children, are found when the program is delivered by nurses rather than paraprofessionals.[315] [316] In the first 24 months after birth, home visits by paraprofessionals significantly improved the responsiveness of mother–child interactions only, while home visits by nurses led to a range of significant effects, including better mental development and fewer language delays among infants, and fewer pregnancies and better employment outcomes for mothers. For most outcomes where home visits had significant effects, the effects produced by the nurses were generally twice as large as the effects produced by the paraprofessionals. When followed-up at the age of 4, significant positive effects for children — including more supportive home environments, greater language ability, better mental control and self-regulation and better behavioural adaptation — were again more likely for those visited by nurses. However, *mothers* who had been visited by paraprofessionals tended to experience a wider range of positive outcomes than those who had been visited by nurses. In particular, they worked more and reported a greater sense of mastery and better mental health. Overall, however, Olds and his colleagues concluded that these

> were isolated effects that, by themselves, do not warrant public investment in the paraprofessional version of this program. Promising findings produced in single randomized trials need to be replicated with other populations before they warrant public investment. (Olds et al. 2004, p. 1567)

315 Generally, people with no formal training in the helping professions. In the trial by Olds et al. (2002, 2004), 'paraprofessionals' all had high-school educations, but no college training in the helping professions and no bachelor's degree in any discipline.

316 Similarly, Sweet and Appelbaum (2004) reported in their meta-analysis of home visiting programs that those involving visits from professionals were associated with better outcomes for children on measures of cognition than those involving visits from paraprofessionals.

The model being developed for implementation in 11 Cape York communities by Apunipima should be carefully considered, as the weight of evidence to date suggests that more positive outcomes have been closely associated with nurse home visits rather than home visits by paraprofessionals. If the Cape York communities are to proceed on the basis of this departure from the nurse model (and such a departure could indeed be justified on a number of grounds), the program should be rigorously evaluated, including to determine its crime prevention effect.

Though the first steps have been taken in Queensland towards providing home visiting services as part of child and maternal health enhancements in some of Queensland's Indigenous communities, governments must recognise the importance of such efforts being:

- sustained rather than a 'trial'
- rigorously evaluated.

Close discussions with those involved in the implementation of the South Australian scheme would provide enormous benefit in Queensland.

Parental management training

In some Indigenous communities it was indicated during our consultations that some kids were 'out of control' or 'running wild'. Comments were also made on a number of occasions that parents and carers were sometimes struggling to find positive ways to influence the behaviour of children without resorting to violence. For example, it was said 'the parents don't know what to do [to control them]. Parents can't even touch those kids any more.' Despite the fact that calls have been made previously for greater support to be provided to parents and carers in this area, little has happened on this front in Queensland's Indigenous communities.

Queensland has conducted a rigorous evaluation of its own parental management program, the Triple P — Positive Parenting Program, and found it to be successful in reducing the risk factors associated with crime (Sanders, Turner & Markie-Dadds 2002; see also Mihalopoulos et al. 2007). The Queensland Government, through Queensland Health, has funded a randomised-control trial evaluating the efficacy of Triple P programs tailored for Indigenous families in South-East Queensland ('Indigenous Triple P') and found that there were significant improvements in some evaluation measures, including that parents[317] who did the program reported lower levels of behavioural and emotional problems in their children and decreased reliance on some dysfunctional parenting practices (Turner, Richards & Sanders 2007). A wider-scale implementation and evaluation of the program have now taken place for Indigenous families accessing Triple P as part of routine service delivery in diverse rural and remote settings across Australia.[318] This evaluation found similar outcomes, including a significant decrease in problem child behaviour, and a significant decrease in dysfunctional parenting practices (pers. comm., Dr Karen Turner, May 2009).

It should be noted that the Family Responsibilities Commission initiative in Aurukun, Hope Vale, Mossman Gorge and Coen has brought a focus to the issue of parenting; the FRC provides support and advice to parents as one of the key interventions available in its case management approach.

It is our view that parents, families and carers in Queensland's Indigenous communities should have increased exposure to programs that provide support and skills for parenting, such as the Triple P — Positive Parenting Program.

317 Although the term 'parent' is used, it refers to carers — for example, grandmothers, aunts and guardians.

318 See <www.pfsc.uq.edu.au/research/current.html>.

Preschool programs

In consultations and submissions it was frequently said that little value was placed on education in these communities and that some children, by the time they reach compulsory school age, are already 'starting way behind' and it was 'already too late' to start engaging them in education (see, for example, individual submission, name withheld, p. 103).

The Queensland Government has committed to having all 4-year-olds in remote communities in early childhood education (now pre-Prep) in five years.[319] In fact, some form of early childhood education has been available in most of Queensland's Indigenous communities for a lengthy period, so it is not clear how this commitment will bring about the amount of change that is needed.

In recent years the Queensland Department of Education and Training has sought to improve the quality and consistency of early childhood education — for example, through its Indigenous 'Foundations for Success' framework and the 'Bound for Success' strategy. In October 2008 the Queensland Premier, the Hon. Anna Bligh, announced that the Queensland Government will invest $40.7 million to enhance the pre-Prep program for Indigenous communities in 2008 and 2009. This money is mostly to be used to improve facilities, although some is also to support the professional development of teachers (QLA (Bligh) 2008, p. 3180).

The pre-Prep program is currently being implemented in all Queensland's Indigenous communities, including Torres Strait Island sites, and is to be provided in a variety of settings such as kindergartens, childcare centres and schools. The pre-Prep program is primarily intended to improve the educational outcomes of Indigenous children in these communities and the curriculum is heavily focused on developing literacy and numeracy skills. Although the current Queensland program aims to involve parents, advice and support to parents is not an explicit and substantial part of the program in the same way as it is in the Perry Preschool model described above, for example.

In our view, to maximise the benefits, the pre-Prep program in Queensland's Indigenous communities should be reviewed and efforts made to innovate by perhaps incorporating aspects of the effective Perry Preschool program and curriculum, including the weekly home visits to parents to provide advice on parenting and practical and emotional support.

Given the important potential of the pre-Prep programs in Queensland's Indigenous communities to lead to improved outcomes, the Queensland Government must ensure they are of the highest quality. The focus on enhancing the quality of these programs must be sustained in the long term, including by:

- ensuring that investment is adequate to provide training and other support to the teachers and any local community members involved in the program
- encouraging maximum attendance at pre-Prep; this should be publicly reported on to ensure that an appropriate focus on attendance is maintained
- using incentives (for attendance) and disencentives (for non-attendance) to encourage parents and families to engage with such programs to the fullest extent
- providing the highest-quality teachers (those with considerable experience and excellent reputations, or the top graduates) to undertake such programs for a number of years.

319 This is one of the COAG targets for closing the gap agreed in December 2007 (Queensland Government 2008e). It is relevant to one of the Bligh Government's Toward Q2 targets, that all children will have access to quality early childhood programs by 2020 so they are ready for school. This is based on the knowledge that children who benefit from a quality early childhood education program are less likely to have contact with the criminal justice system or mental health services, or to require family support (see Queensland Government 2008h).

In Napranum there is an example of a non-government initiative to set up this type of program — a private sector and community partnership to improve readiness of young children for formal schooling. The Napranum Parents and Learning Program (PaL) is a community owned and managed partnership funded by Rio Tinto Ltd who have a bauxite mining operation based in Weipa. It is a two-year home-based program, involving local people trained as tutors, which actively engages parents with their children in educational activities outside the school (Shepherd & Walker 2008).[320]

School and community-based programs

As we have noted, our inquiry frequently heard that 'education is not valued' in Queensland's Indigenous communities. In both submissions and consultations it was also stated that Queensland's state laws do not provide an effective response to truancy. Such laws were described as being 'unworkable', overly 'cumbersome', 'of no practical benefit' and 'fatally flawed' (see, for example, the submission of the CYIPL, p. 9; individual submission, name withheld, pp. 99–100).[321] In contrast, some submissions and also our examination of data on the use of community by-laws indicate that in some communities 'law and order' by-laws on truancy have enabled more direct action to be taken to fine parents and carers for non-attendance of children at school (see the submission of the CYIPL, p. 9; individual submission,name withheld; see also by-law data presented in Chapter 17).

The area of achieving crime prevention outcomes through school and community-based programs remains underdeveloped in Queensland's Indigenous communities.

In schools in these communities, there are no systemic programs combining parent training, teacher training and skills training targeted at young school children, comparable to the famous Seattle Social Development Project of David Hawkins and his colleagues (1999) referred to above.

There has certainly been an improved focus on problems of school attendance and performance in Queensland's Indigenous communities over recent years, which reflects agreed COAG targets and the reporting measures (see COAG 2008). For example, regarding school attendance:

- Programs that monitor and reward school attendance by students at risk of truancy have been increasingly implemented in Queensland's Indigenous communities. For example, there have been a variety of 'no school, no pool'-type programs, programs where students are rewarded for good attendance at school by being provided with an excursion at the end of semester, or efforts by teachers to do an 'all kids to school drive' by walking around the community in the mornings (see DOC 2009).
- The Welfare Reform Trial initiative in Aurukun, Hope Vale, Mossman Gorge and Coen also reinforces the focus on the importance of school attendance by including, as a trigger for FRC intervention for parents and carers, the non-attendance of children at school.

Although there are still significant gaps, there are also a variety of efforts to improve the school performance of children and young people in Queensland's Indigenous communities.

We did find during our consultations that in many communities steps have been taken in recent years to increase the number of young people from the communities able to attend boarding school elsewhere. Often these efforts appeared to be the initiative of particular individuals (for example, in Aurukun and Mornington Island), but it was clear that good interagency support had since developed, including from police. In these locations, for example, police

320 The Australian Government has more recently funded this program in Hopevale and Mapoon for an initial period of two years (Shepherd & Walker 2008).

321 Queensland's state laws on truancy provide a staged process by which action regarding truancy can be taken against parents and carers, and which may ultimately result in them being fined. See Chapters 9 and 10 of the *Education (General Provisions) Act 2006*.

played an important role in facilitating communication by informing families of the safe arrival of young people at boarding school or providing videoconferencing facilities to help families keep in touch with young people away at school.

Police in some communities also stated that they played a role in trying to make sure that the community send-off for children going to boarding school 'was better than the send-off when kids go off to detention'. It was noted that when 'practically the whole community' turns out at the airport to see someone off when they are going to a detention centre, or even returning from detention centre with minor articles of clothing issued there, this could act as an incentive for juvenile crime. Some police and community members mentioned that children in these communities were 'good at cutting each other down' in relation to educational achievement, and that peer pressure often discouraged children from doing well at school.

We did not find any evidence of formalised mentoring schemes operating in Queensland's Indigenous communities,[322] except for that provided through the Cape York Institute for Policy and Leadership 'Higher Expectations' program (see below).

Noel Pearson, the Cape York Institute for Policy and Leadership, and Chris Sarra and his Indigenous Education Leadership Institute have highlighted the importance of 'high-quality, high-expectation' teaching in Queensland's Indigenous communities (see Karvelas & Toohey 2009). The Cape York Institute has provided several innovations in this area:

- a 'Teach for Australia' program (with the assistance of the philanthropic organisation Social Ventures Australia), which includes a proposal for substantial tax-free incentives to attract and retain experienced teachers and the top graduates (see Ferrari 2008)
- a Higher Expectations Program, which operates to identify and support academically talented Indigenous secondary students from throughout the Cape York, Palm Island and Yarrabah communities so that they can complete secondary education and progress to university studies. The program is sponsored by the private sector, through the Macquarie Group Foundation, and funds are also provided by the Australian Government.
  - Funding provided during 2008 and 2009 has covered tuition and boarding fees so that the identified students can attend one of nine high-performing boarding schools in Queensland.
  - Funding also supports the development of individual leadership planning and leadership workshops, tutoring, mentoring, orientation activities, extracurricular activities and study tours.
  - The program also provides cultural awareness sessions for all staff in direct contact with Indigenous students to help alleviate the culture shock and transition difficulties that occur with young people who are used to life in small, remote communities and involvement in extended families.

  There are about 36 students involved in the program, from 15 communities. In 2006, the first student on the program from Aurukun graduated from Year 12, with 6 other students graduating since, all of whom are currently undertaking tertiary studies (see the CYIPL website).

The crime prevention value of improving the attendance and performance of Indigenous children at school cannot be overestimated. Several police officers suggested to us that the most effective, and probably the cheapest, crime prevention strategy for these communities would be for the government to offer to fully fund any child from Queensland's Indigenous

322 The Queensland Department of Education has a Queensland Community Mentoring Program (QCMP), which provides funds for programs to mentor 'at-risk' 15–17-year-old youth. We did not find evidence of the QCMP being applied to any substantial extent in Queensland's Indigenous communities. We are aware that Social Ventures Australia is also involved in a mentoring program, the Australian Indigenous Mentoring Experience, which for a number of years has operated in NSW to link university students in a one-on-one relationship with high school Indigenous students. This program does not operate in areas other than where there is a university campus.

communities who would like to take up the opportunity to attend a boarding school. To achieve crime prevention outcomes, further improvements are needed in terms of school attendance, curriculum and performance in Queensland's Indigenous communities.[323] Options include:

- providing programs for the primary school years that include parent training, teacher training and skills training for children as provided in the Seattle Social Development Program, which had the philosophy of 'catching them being good'
- encouraging mentoring schemes for young people in these communities
- involving parents and carers more — for example, by providing them with incentives for their child's attendance at school or disincentives for non-attendance
- providing more effective disincentives for parents and carers for the non-attendance of children at school (perhaps by using mechanisms available in the FRC initiative in other communities, or using community 'law and order' by-laws on truancy)
- improving attendance and performance by developing programs that offer coaching, and a cash scholarship to increase teenagers' motivation to complete Year 12
- developing, with private sector partners, rewards for attendance and educational attainment
- developing public and private sector partnerships to ensure that funding and support are available for any young person from these communities who wants to take up the opportunity to attend a boarding school
- introducing social marketing campaigns focused on changing parental attitudes to the importance of school (see the further discussion below).

Efforts should be made to engage the private and university sectors in developing and offering such programs wherever possible. For example, a university partner may be ideal for the development of a program in the primary school years to provide parent training, teacher training and skills training for children. There may be opportunities to involve the private sector, including the advertising industry, in the development and provision of incentive-based programs for parents and children, and social marketing campaigns aiming to increase the value placed on school education. One submission to our inquiry reported that the Century Mine was eager to support the provision of incentives to children for consistent attendance at school as part of its support of the Gulf community (individual submission, name withheld, p. 112).

The success enjoyed in a relatively short space of time by Cape York Partnerships and the Cape York Institute for Policy and Leadership in forming partnerships in this area should provide a positive model. In this era of increasing corporate social responsibility, and with evidence of such successful partnerships being established, more support for such ventures should be sought from the private sector and efforts directed toward engaging the private sector in such partnerships.

323 The Queensland Department of Education has a range of relevant initiatives and pilot programs, but these pilot programs are not operating in Queensland's Indigenous communities. For example:

- identifying Indigenous students with high learning potential to participate in learning camps or programs that aim to convert their potential into performance and build on this knowledge for application in the classroom; a pilot project commenced in late 2006 across 23 schools in the Sunshine Coast South District
- programs focused on working with Indigenous students, teachers and families to improve student attendance, achievement and school completion levels — for example, a pilot Indigenous Education Support Structures (IESS) four-year program to address Indigenous students' educational outcomes, in Mt Isa, Cairns, Rockhampton, Ipswich and Cunnamulla-Charleville.

Media and social marketing campaigns

What's the evidence about media and social marketing campaigns?

One more innovative method of preventing crime may be through the mass media and social marketing campaigns, which typically focus on facilitating 'the acceptance, rejection, modification, abandonment, or maintenance of particular behaviours' by a target group (Grier & Bryant 2005, p. 321). Such campaigns are particularly prevalent in the area of public health — in Australia, for example, campaigns discouraging smoking, promoting behaviours to prevent skin cancer, promoting safe sex and encouraging people to engage in increased physical activity are very well known.

Importantly, evidence from the public health area suggests that such campaigns can be effective in changing social norms, values and behaviours — even those that may be considered relatively entrenched, such as smoking and drinking. For example, a meta-analysis of 48 public health campaigns conducted in the United States between 1974 and 1997 found that, on average, 9 per cent of the population changed their behaviour after the campaign (Snyder & Hamilton 2002).[324] Similarly, a meta-analysis of 72 published and unpublished studies of media campaigns focused specifically on curbing youth substance use indicated that such campaigns had positive effects on knowledge, attitudes and behaviour (Derzon & Lipsey 2002, cited in Noar 2006). Such findings suggest that similar campaigns to change attitudes and behaviours that contribute to crime may be useful.

Mass media and social marketing campaigns have previously been used to target particular types of crime directly — most notably drink driving, sexual violence and domestic violence. Some specific programs in these areas have been found to have highly positive effects. In particular:

- Elder et al. (2004) systematically reviewed eight studies that examined the effectiveness of mass media campaigns in Australia, New Zealand and the United States in reducing drink driving and alcohol-related road accidents. Although they noted that no study provided unequivocal evidence of the campaign's effectiveness, the consistently positive results across the studies led the authors to conclude that there was strong evidence that

  > mass media campaigns that are carefully planned, well executed, attain adequate audience exposure, and are implemented in conjunction with other ongoing prevention activities … are effective in reducing alcohol-impaired driving and alcohol-related crashes. (Elder et al. 2004, p. 65)

  More importantly, cost–benefit analyses for three of the campaigns indicated that their benefits to society greatly outweighed their costs of implementation. The Victorian Transport Accident Commission's 'Drink drive — bloody idiot' campaign, for example, was estimated to have saved $8 324 532 per month in medical costs, lost productivity, pain, suffering and property damage, while costing just $403 174 per month to run (Elder et al. 2004).
- A social marketing campaign in California focused on preventing sexual violence has reportedly had positive effects on related attitudes among young people (see Lee et al. 2007). The 'MyStrength' campaign was developed by the California Coalition Against Sexual Assault, with support from the California Department of Health Services, to reposition 'the concept of male strength to encourage, motivate, and enable young men to take action to prevent sexual violence' (Lee et al. 2007, p. 19). The campaign has as its central theme 'My Strength Is Not for Hurting', and involves
  - paid advertising in the form of radio ads, billboards and cinema ads
  - peer-to peer-contact in the form of MyStrength clubs, where young males explore over 16 weeks ways in which they can stop sexual violence

324 Effect sizes ranged from $M_r = 0.01$ to $M_r = 0.41$, with an average of $M_r = 0.09$. The authors noted that, 'reassuringly', this average effect size was comparable to those found for a range of other preventive interventions, including school-based drug programs and clinic-based education for cardiac patients (Snyder & Hamilton 2002, p. 375).

  - a supportive school environment, including the distribution of campaign materials in high schools
  - campaign ambassadors to promote the MyStrength message in local communities.

  Preliminary evaluations of the program indicate that those young men who participate in the MyStrength clubs are more likely to say that they would intervene to stop sexual harassment (Lee & Lemmon 2006, cited in Lee et al. 2007). Surveys of high school students also show that those who are exposed to the campaign are somewhat more likely to have 'respectful and equitable attitudes' than those who are not (Kim 2006, cited in Lee et al. 2007, p. 19).
- A social marketing campaign in Western Australia — the 'Freedom from Fear' campaign — has had considerable success in motivating male perpetrators of intimate partner violence to voluntarily attend counselling (see Donovan, Paterson & Francas 1999; Gibbons & Paterson 2000). Launched in 1998, the campaign involves advertising to raise awareness of the Men's Domestic Violence Helpline among perpetrators and potential perpetrators, and to encourage these men to use it. The Helpline is staffed by trained counsellors who assess the callers, provide telephone counselling and refer suitable callers to free, government-funded counselling. Initial results from 2000 showed that awareness of domestic violence advertising within the general population increased from 29 per cent to 88 per cent 21 months after the campaign. More importantly, over 3840 members of the target audience used the Helpline, including 2543 self-identified perpetrators. Of these self-identified perpetrators, 53 per cent (1352 men) accepted a voluntary referral to an appropriate counselling program (Gibbons & Paterson 2000). The campaign has won a number of awards, including the 1999 Novelli Prize for Excellence and Innovation in Social Marketing and the 1999 Australian Violence Prevention Award (Western Australian Government n.d.).

A recent social marketing campaign in New York has shown early signs of success in improving school attendance and performance.

The 'Million' campaign — Droga5, New York

Droga5 was one of six New York advertising agencies challenged in 2007 to come up with a campaign that would improve attendance and achievement among that city's 1.1 million public school students, many of whom are poor and disadvantaged. Other agencies came back with more predictable ideas: a graffiti campaign, celebrity endorsements. Droga5 focused on what motivates kids.

Its 'Million' campaign is based on that unmissable status object, the mobile phone. It began with a pilot program of 2800 students in seven schools. Students were each given a mobile phone, which switched between School's In and School's Out mode. When the children were in school, the calling and text functions were deactivated. But that didn't mean the phone was out of action. Educational software loaded onto the phone meant students could use it for research. It was also a platform for tests.

Teachers scored students in key areas such as attendance, behaviour and class performance. Based on those scores, students earned Million points that could then be converted into free talk time, text messaging, music downloads and discounts at stores. These could be used in School's Out mode.

The program initially met with some resistance. New York City had banned mobile phones in schools in 2006. And some parents were concerned that their children were being offered a phone as a kind of foot-in-the-door policy for branded advertising.

After the pilot program, 75 per cent of the students who took part said they were working harder and interacting more with teachers. Sixty-five per cent of parents noted that their children were doing better in school and doing more homework.

Droga5 and the US Department of Education are waiting for the results of a comprehensive assessment of the success of the pilot. Pending funding, their hope is to expand the program.

Million won the Titanium Integrated award at Cannes in 2008, advertising's equivalent of the Best Film Oscar.

(Source: information adapted from that provided on the ABC website, ABC TV, *The Gruen Transfer*, 22 April 2009, see <www.abc.net.au/tv/gruentransfer/stories/s2549912.htm>).

Although successful campaigns are encouraging, it is important to recognise that a link between mass media and social marketing campaigns and *behaviour* change is not necessarily well established in many cases (Harvey, Garcia-Moreo & Butchart 2007). For this reason, campaigns aimed at changing behaviours should be implemented in conjunction with other strategies. Furthermore, the effectiveness of campaigns in general can vary considerably depending on a range of factors. Snyder and Hamilton (2002), for example, found that mass media campaigns were generally better at getting people to adopt new, positive behaviours than getting them to stop or prevent problem behaviours. Other factors related to the development, implementation and evaluation of a campaign can also affect its outcome. Research in the areas of both public health and crime prevention has identified a number of such factors that are likely to enhance the chances of a program's success (see, for example, Grier & Bryant 2005; Harvey, Garcia-Moreo & Butchart 2007; Noar 2006; Randolph & Viswanath 2004; Snyder & Hamilton 2002). These include:

- extensive formative research with the target audience to develop a comprehensive understanding of both the audience and the problem to be addressed; this was a key aspect of the 'Freedom from Fear' campaign, and helped to identify a campaign message (focused on arousing feelings of guilt and remorse about the effects of domestic violence on children) that was relevant and effective for the target audience (Donovan, Paterson & Francas 1999)
- pre-testing marketing messages with the target audience to ensure that the messages will be suitable and effective
- grounding the campaign in appropriate theories — including those relating to commercial marketing, media advocacy, behavioural analysis and behaviour change — to ensure that campaign messages target the determinants of the attitudes or behaviours to be addressed, in a way that is most likely to produce change
- developing creative messages and aiming these at specific segments of the target audience
- ensuring maximum exposure of the campaign message in channels widely and frequently viewed by the target audience
- conducting a thorough process evaluation that monitors the implementation of the campaign
- providing a supportive environment for the campaign to operate in — as in the case of the Men's Helpline in the 'Freedom from Fear' campaign, it is vital that the necessary services and resources are in place to enable people to make the recommended changes
- conducting rigorous outcome evaluations to enable confident conclusions to be drawn about the effectiveness of the campaign in changing attitudes and behaviours.

Incorporating these principles into the design and implementation of mass media and social marketing campaigns will be important in ensuring that they provide the greatest benefits in terms of attitude and behaviour change (see also Homel & Carrol 2009).

How can we build on our efforts to use media and social marketing campaigns?

To date, there has been some sporadic use of media and social marketing campaigns in Queensland's Indigenous communities.

Most recently, in Normanton a project tackling Indigenous family and domestic violence has achieved some prominence and success. The Normanton Building Safer Communities Action Team committee and the Normanton Stingers Rugby League Football Club ran a social marketing campaign on domestic violence that won the annual Australian Crime and Violence Prevention Awards in October 2008.

The slogan 'Domestic Violence — It's Not Our Game' was adopted by the team and team members agreed to become role models in the community. By agreeing to be role models, all team members accepted that the penalty for violence was exclusion from games and ultimately the team. The slogan has been promoted widely throughout the community on television advertisements, car stickers, wristbands, banners at games and community events, and the

players' and supporters' jerseys. The purpose of the campaign was to create a culture in which domestic and family violence is not the accepted norm. The project has seen a 55 per cent decrease in the prevalence of domestic and family violence in Normanton (AIC 2008).[325]

More use, and more creative use, of social marketing campaigns in Queensland's Indigenous communities could be useful in reducing crime. Campaigns may relate to issues such as:

- the inappropriateness of violence as a means to resolve disputes
- non-violent parenting and modelling non-violent behaviours
- school attendance and performance.

The development of any such campaigns could involve private and public sector partnerships. For example, they may involve the expertise of advertising agencies, public health professionals and the university sector. Obviously, to be effective, any such campaign must be appropriately researched and designed for the target audience and there must be community involvement. It may also be possible that such campaigns can be entirely developed 'from the ground up', as was the case in Normanton.

Implementing improved crime prevention strategies outside the criminal justice system

Even with appropriate recognition of the importance of crime prevention efforts outside the criminal justice system, and support for such efforts, there will remain significant bureaucratic and jurisdictional barriers to their effective development and delivery. By their nature, crime prevention efforts outside the criminal justice system often require a degree of multi-agency cooperation. Health, community development, education and justice systems all have a stake in the outcomes that such programs can bring.

It is also notoriously difficult for government to strike the right balance in terms of the size and nature of its role in crime prevention efforts. Though crime prevention outside the criminal justice system in Queensland's Indigenous communities must have government support and leadership if it is to be successful, Indigenous people must remain central in solving the problem, and real success depends on action at the local level. Government ideally should be a junior partner, limited to playing a supporting role. Where this is not possible, government should seek to pursue strategies to ensure its 'inbuilt obsolescence' — that is, government should aim to retreat over time, leaving behind sustainable community-run crime prevention efforts.

Queensland has within its borders 'national treasures' in the field of crime prevention and parenting programs, such as:

- Professor Ross Homel, Foundation Professor of Criminology and Criminal Justice at Griffith University, and Director of the university's Strategic Research Program in the Social and Behavioural Sciences. Ross Homel is the co-director of a large early intervention project in a disadvantaged area of Brisbane (the Pathways to Prevention Project). In 2004, this project, which he developed in partnership with Mission Australia, won equal first prize in the National Crime and Violence Prevention Awards.
- Professor Matthew Sanders, Queenslander of the Year 2007, Professor of Clinical Psychology, Director of the Parenting and Family Support Centre at the University of Queensland and Founder of the Triple P — Positive Parenting Program. He is a leader in the field of population-level approaches to providing parenting and family support.

325 The success of the Normanton program echoes the success of a similar program at Woorabinda in the 1990s, which focused on domestic violence issues through the rugby league team, the Wadja Warriors (see Cunneen 2001b, p. 64).

Governments must support and engage the involvement of such expertise if we are to address the crime problem in Queensland's Indigenous communities. Governments should be applauded for supporting initiatives such as Cape York Partnerships, the Cape York Institute for Policy and Leadership and the Indigenous Education Leadership Institute, which can provide innovative thinking (such as the FRC trial developed by the Cape York Institute, which has been given substantial support by the Queensland and Australian Governments).

Better engagement of the university sector, particularly the crime prevention expertise at Griffith University and the parenting program expertise at the University of Queensland, may assist. There could also be increased involvement of private sector expertise, especially by getting those in the advertising industry to work with Indigenous communities to develop social marketing campaigns (perhaps with mining industry support) relevant to preventing crime and violence. Such campaigns should be evaluated to determine their effectiveness.

Summary and conclusions: stemming the flow of offenders to the criminal justice system

Despite previous recommendations highlighting the importance for Indigenous communities of broad approaches to crime prevention that extend beyond the criminal justice system, there has continued to be a heavy focus on dealing with offending and offenders by allocating resources to the criminal justice system.

A multiplicity of crime prevention approaches in Indigenous communities is needed, to address the underlying causes of crime. To date, initiatives outside the criminal justice system in Queensland's Indigenous communities remain heavily 'back-end' focused — that is, they concentrate on preventing offending through opportunity reduction at the point at which offending may occur. Other programs outside the criminal justice system, such as outstations, camps and sport and recreational activities for young people, are small scale and are provided only sporadically. Largely they also lack an evidence base to suggest that they will be effective in reducing crime.

There continues to be a significant gap between what we know can be done and what is being done in the area of early intervention. Some early intervention programs have been shown to have a very substantial crime prevention effect, far greater than other interventions that may be provided later in life when offending has commenced.

Given what is known about:

- Indigenous overrepresentation in the criminal justice system
- the disruption to Indigenous parenting and families that has been caused:
  - by processes of colonisation, including the past policies that caused the removal of many children from their Aboriginal parents, and the proof available about the intergenerational effects of such removal
  - by sickness and premature death, and
  - by the large number of Indigenous people, including parents and carers, in prison
- the link between inadequate parenting and involvement in crime

it is tragic that, despite previous recommendations, greater efforts have not been made to urgently address the need to provide support and advice to Indigenous families, parents and carers within Queensland's Indigenous communities (see Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999, pp. 156 & 258; see also HREOC 1997; Zubrick et al. 2005, pp. 571–5).

Although it can be argued that more should have been done sooner in terms of implementing early intervention approaches to crime prevention in Queensland's Indigenous communities, there are some positive steps occurring in Queensland on which we can build — in terms of parenting programs and home visiting services, for example. The Welfare Reform Trial initiative,

and particularly the case management approach taken by the FRC and the associated programs and services, provides an important step in four communities to address the underlying causes of crime and to rebuild social norms.[326]

To date, Cape York Partnerships and the CYIPL have proven to be effective in developing innovations and partnerships in this area. Their example illustrates that government should not be in the front line of developing innovative crime and violence prevention strategies and partnerships with Indigenous communities, but rather government can have a useful role as a supporting partner for Indigenous organisations, which are better connected at the regional and local levels. This is likely to be especially true for programs that include a component of advice and support to parents; there is a clear danger that the provision of advice and support to Indigenous parents and families could be imposed by governments in a paternalistic or ethnocentric manner that would doom any effort to failure from the outset.

This being said, the Queensland Government, especially through ATSIS, needs to develop a stronger understanding of and focus on what the evidence can tell us about what might work in terms of preventing crime and violence.

We see a key part of the Queensland Government's role as being to support and facilitate the development of a range of partnerships in this area. Importantly, efforts should include:

- engaging the expertise available in the university sector, such as that at Griffith University regarding developmental approaches to crime prevention, and at the University of Queensland regarding parenting programs
- recognising and encouraging the contribution of the private sector (both 'not for profit' and 'for profit' agencies), such as the examples we have seen in the work of Cape York Partnerships, the CYIPL and corporate bodies such as the Macquarie Group and Rio Tinto Ltd
- capacity building in Indigenous communities to develop a better understanding of the evidence regarding parenting practices and outcomes later in life, for example.

➡ Action

That the Queensland Government facilitate partnerships and provide support to them, to encourage innovation in the area of the development and implementation of crime prevention strategies for implementation on the ground in communities. Local and regional organisations such as Cape York Partnerships, CYIPL and the Apunipima Cape York Health Council, should be supported to develop innovations and partnerships in this area.

➡ Action

That:

- **The Queensland Government and ATSIS ensure that an appropriate mix of crime prevention strategies outside the criminal justice system is implemented in each of Queensland's Indigenous communities, with a particular focus on the implementation of evidence-based early intervention strategies.**
- **Along with its role in coordinating government, ATSIS assist where necessary in facilitating the development of partnerships with communities, community organisations, the private sector, universities and others to ensure that the best expertise is applied to the problems.**

326 Depending on the results of the evaluation of this trial, consideration should be given to adapting the JP Magistrates Courts in other communities to incorporate some of the key elements of the FRC, such as case management and the use of a range of incentives and disincentives to change behaviour (see Chapter 17).

Successful efforts made in this regard, which for our purposes are focused on achieving important outcomes in preventing crime and violence, will also help government to achieve the COAG *Closing the Gap* targets for Indigenous people and to meet the commitments made under the National Partnership Agreement Between the Commonwealth of Australia and the State and Territory Governments Regarding Indigenous Early Childhood Development (2008) (Australian Government 2009; COAG 2008).

➡ Action

Support to parents and carers in Queensland's Indigenous communities should include nurse home visits for new mothers and carers, based on the Professor Olds model. Similar home visiting services that depart substantially from the model shown to be effective elsewhere must be rigorously evaluated so that we can build a body of evidence about what is effective in these communities.

➡ Action

That parents, families and carers in Queensland's Indigenous communities should have increased exposure to programs that provide support and skills for parenting, such as the Triple P — Positive Parenting Program.

➡ Action

The pre-Prep program in Queensland's Indigenous communities should be reviewed and efforts should be made to incorporate aspects of the effective Perry Preschool program, including the weekly home visits to parents to provide advice on parenting and practical and emotional support.

➡ Action

Efforts should be made to engage the private and university sectors in developing and offering school and community-based programs to provide incentives for school attendance and achievement, and disincentives also. The success enjoyed in a relatively short space of time by Cape York Partnerships and the Cape York Institute for Policy and Leadership in forming partnerships in this area should provide a positive model.

➡ Action

More use, and more creative use, of social marketing campaigns in Queensland's Indigenous communities could work to reduce crime. Campaigns may relate to issues such as:

- the inappropriateness of violence as a means to resolve disputes
- non-violent parenting and modelling non-violent behaviours
- school attendance and performance.

The Queensland Government should engage the expertise of advertising agencies, public health professionals and the university sector to develop and trial such a campaign with appropriate community involvement.

16

CRIME AND VIOLENCE PREVENTION WITHIN THE CRIMINAL JUSTICE SYSTEM

As we have stated, the first step towards optimising the use of criminal justice resources in Queensland's Indigenous communities must be giving a higher priority to reducing the size of the crime and violence problem in these communities.

We talked in the previous chapter about the importance of having a mix of crime and violence prevention strategies outside the criminal justice system, including those designed to reduce the opportunity for crimes to be committed, as well as those that seek to address the underlying social causes. In that discussion we argued for a stronger focus on 'front-end' approaches to crime prevention, particularly in relation to those types of interventions early in life shown through research to be effective. Although the criminal justice system is at the 'back end' of the crime prevention continuum, it also plays an important (if more inherently limited) crime prevention role.

The crime prevention role of the criminal justice system can be said to lie at the 'hardest' end of the problem — many of those most deeply involved in the criminal justice system are individuals who face multiple and complex challenges such as addictions, mental impairment, developmental deficits, poor education, and long-term unemployment. Providing effective interventions to change the trajectories of such individuals after they have begun offending is certainly possible, but difficult. The criminal justice system is an important way of intervening in the lives of offenders and preventing further crimes being committed; this is particularly important in terms of dealing with chronic or persistent offenders, who we know account for a large proportion of offences.

Because of the importance of implementing effective crime prevention for the future of Queensland's Indigenous communities, the criminal justice system in these communities must seek to maximise its crime prevention effect. Unfortunately, understanding of the evidence for the crime prevention potential of aspects of the criminal justice system remains underdeveloped and is often confused in government policy. In the past, for example, many policies and practices that were said to be focused on reducing Indigenous overrepresentation in the criminal justice system were policies and practices that were likely to have little if any crime prevention effect. Having a sound understanding of the evidence about the crime prevention effectiveness of the various aspects of the criminal justice system enables us to develop policies and strategies that will maximise the effectiveness of this important, but limited, role of the criminal justice system.[327]

This chapter considers the evidence regarding the crime prevention effectiveness of the following aspects of the criminal justice system:

- **the police**
- **diversionary options**
- **courts**
- **corrections.**

327 It should be noted that, even if the research suggests that an aspect of the criminal justice system does not have any crime prevention effect, it may have other important outcomes.

In this chapter we also consider information on the availability of those responses of the criminal justice system that may have the greatest crime prevention effect in Queensland's Indigenous communities, and what needs to be done to maximise the crime prevention effect of the criminal justice system in these communities.

What can the police do to prevent crime?

In Chapter 9 we provided a detailed outline of various policing strategies most relevant to Queensland's Indigenous communities and we discussed the evidence relating to their effectiveness in reducing crime. We do not repeat these details here but briefly summarise our conclusions about the role that police have to play in crime prevention in Queensland's Indigenous communities.

1. First, there is clear evidence that individuals are less likely to offend when there is a credible threat of apprehension for offending. For example, there are a large number of studies that show the close relationship between the perceived risk of apprehension and people's self-reported degree of willingness to engage in crime.[328]
2. Second, police play a crucial role in limiting the opportunities and incentives for involvement in crime. For example, there are a number of research studies which provide evidence that police crackdowns or patrols can be very effective, at least temporarily, when they target crime 'hotspots'.[329] This kind of strategy, which aims to reduce the opportunity for offending, is likely to be particularly effective in reducing transient offending.
3. In Queensland's Indigenous communities, the police must play a crucial additional crime prevention role by firmly entrenching the philosophy of problem-solving and partnership policing strategies (such as the QPS POPP framework) in these communities. Accordingly, the role of the police in Queensland's Indigenous communities should be seen as substantially different from that of officers in other locations; in particular, police must see their role as far more extensive than mere law enforcement — problem solving in partnership should be central to police work in these communities.

What role can diversion play in crime prevention?

What is diversion?

Diversion is 'the process of keeping offenders and other problem populations away from the institutional arrangements of criminal justice or welfare' (McLaughlin & Muncie 2008, p. 141). There are numerous opportunities throughout the criminal justice process for diversion to occur. The police, juvenile justice services and the courts can all provide diversionary opportunities.

Diversion has played an increasing role in the criminal justice system, not just in Indigenous communities, but across Queensland, Australia and elsewhere, especially for juveniles. The impetus for the move toward diversionary options arises from:

- the failure of the prisons to stem the tide of repeat offenders, which means that different strategies for dealing with offenders are worth exploration
- the sheer costs of formal courtroom processes and of maintaining prison buildings and programs

328 Although there is evidence of this close connection, such survey research designed to identify factors that influence compliance with the law also finds that most people are inhibited from crime by their sense of personal morality rather than the threat of being apprehended and prosecuted (cited in Weatherburn 2004, p. 117).

329 See, for example, McGarrell et al. (2001) and Sherman (1990); cf. the Kansas City Patrol Experiment (cited in Weatherburn 2004, p. 95).

- concerns about the negative impact of conventional methods of conflict resolution and punishment on the rehabilitation of offenders and of the negative labels on the re-integration of offenders into society (White & Perrone 1997; McLaughlin & Muncie 2008).

The rationale for diversionary options is that they provide a more positive way to deal with crime and offending behaviour than the formal criminal justice processes because they tend to operate in a less intrusive manner and they are community based. Another rationale commonly offered for increasing the use of diversionary options is that the criminal justice system itself has a stigmatising and criminalising effect on offenders, particularly young offenders.[330] On this basis it is said that, the earlier young people become involved in the criminal justice system, the harder it is for them to get back onto a positive pathway (see, for example, Queensland Government 2006a).

The notion of 'restorative justice' plays an important role in diversionary strategies such as mediation and dispute resolution, and youth justice conferencing. Restorative justice carries with it an:

> acknowledgment that crime is an offence against the victim, not the state, and that the injury caused by crime impacts not only on that victim, but also in families of both the victim and the offender and on their respective communities; that these broader injuries can only be resolved by involving all of the key protagonists in the decision-making process; and finally, that offenders must be given the opportunity to make good the damage they have caused, thereby bringing about reconciliation between victims and offenders and the restoration of community harmony. (Van Ness 1990, p. 99)

The restorative justice philosophy is also said to accord strongly with Indigenous approaches to justice and has been an approach endorsed and encouraged by many previous reviews (see, for example, Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999; Fitzgerald 2001).

Unfortunately there is a great deal of definitional ambiguity associated with the term 'diversion'. An important distinction is sometimes drawn between two types of diversionary options:

1. 'Diversion from' custody, court or the criminal justice system. For example, in Chapter 13 we discussed the range of diversionary options available to police in order to divert people from custody or the criminal justice system, such as by taking no action, issuing a caution, issuing a notice to appear rather than relying on the process of arrest, taking a drunken person to a place of safety, or discontinuing arrests in a range of circumstances, such as for drunkenness.
2. 'Diversion to' treatment or intervention programs. For example, in some limited circumstances police and the courts can divert:
   - juveniles to youth justice conferences
   - offenders to mediation or other alternative dispute resolution
   - juveniles to a bail support program
   - minor drug offenders to a 'drug assessment program'.

   Courts can also 'divert' people into treatment programs as a condition of the court orders made when sentencing a person.

The importance of the distinction between 'diversion from' and 'diversion to' becomes clear when the evidence of the crime prevention effectiveness of various diversionary options is examined and considered alongside the pattern of crime in Queensland's Indigenous communities.

330 It should be noted that there is some debate about the interpretation of research findings that, with each successive court appearance by a juvenile, the likelihood of another court appearance increases. On one hand, such findings may indicate that bringing juveniles to court is counterproductive, in that it seems to increase the risk of re-offending. On the other hand, the proportion of persistent juvenile offenders may grow with each successive court appearance simply because those who are less likely to re-offend drop out of the system (see Weatherburn 2004, p. 59).

The continuing focus on increasing the use of diversionary strategies

As we have outlined in Chapter 2, particularly since the time of the Royal Commission into Aboriginal Deaths in Custody, great store has been placed on the notion that increasing diversionary options will be effective in reducing Indigenous overrepresentation in the criminal justice system. The Queensland Government has repeatedly made commitments to increasing its use of diversion in this context, such as in relation to the Queensland Aboriginal and Torres Strait Islander Justice Agreement (see Queensland Government 2006a, pp. 19–22).

The continuing focus on increasing the use of diversion can be seen in:

- The Queensland Government's recent allocation of resources to Indigenous criminal justice issues, which includes commitments to increasing the use of alternatives to arrest and other diversionary measures. In the 2007–08 State Budget, $21.3 million over four years was allocated to target 'diversionary centres, cell visitor services and other diversionary measures' (Queensland Government 2008e, p. 74). The 2008–09 State Budget's Indigenous Alcohol Rehabilitation Support Program allocated $15.04 million to deliver 'diversionary initiatives' (and a further $29.61 million for alcohol and drug detoxification and rehabilitation programs, and to refurbish and enhance alcohol and drug treatment facilities) (Queensland Government 2008g, 2008i).
- The Acting State Coroner's comments in the Mulrunji inquest regarding diversion included that Queensland's laws and the QPS OPM should be amended to reflect the principle of arrest as a last resort and to strengthen the demands on police to use alternatives to police intervention for intoxicated persons by way of arrest,[331] including the use of diversionary facilities and community patrols (Clements 2006).[332]
- Submissions to our inquiry urged expansion of diversion, especially for young people in Indigenous communities (see submissions of the Department of Communities, p. 3; Queensland Health, p. 4; Sisters Inside, p. 5; Department of Emergency Services, p. 1; Department of Child Safety, p. 4; QPS, p. 16). A number of submissions to the inquiry also argued for strengthening legal demands on police to use arrest only as a last resort, especially for public order offences and juveniles; they also argued for more facilities and health and community services to support police efforts to divert, especially to divert intoxicated people (individual submission, Ashby, p. 1; LAQ, pp. 3 & 5; ATSILS (Qld Sth), pp. 4, 7–8; JCU Law School, pp. 14, 25 & 29; Queensland Health, p. 4).

What is the evidence regarding the crime prevention effectiveness of diversionary options?

Weatherburn, Fitzgerald and Hua (2003, p. 70) have argued that there is limited evidence that diversion effectively reduces crime rates. That is, studies that adequately control for the type of offence involved, and the proportion of offenders likely to desist from offending anyway, show that few diversionary options can demonstrate a substantial crime prevention effect. This may

331 It should be noted that the coronial comment refers to a broad category of 'intoxicated persons' rather than the current statutory duty, which requires police to consider diversion for a more limited category — those 'arrested for being drunk in a public place' (see s. 378 of the *Police Powers and Responsibilities Act 2000*). Despite the Queensland Government giving its support to implementing the changes suggested by the Acting State Coroner in November 2006, no changes have been made to the relevant legislation and only some minor changes have been made to the QPS OPM in this regard (Queensland Government 2006c). The comments of the Acting State Coroner in the coronial inquest into the death of Mulrunji triggered a review of all police training regarding the exercise of police discretion to arrest. The review was said to identify some gaps in training to be rectified, but did not identify any major changes required (Queensland Government 2006c; Clements 2006).

332 The Queensland Government's response supported these recommendations and said that expanding diversionary measures on Palm Island would be a 'priority'. The government said that the Department of Communities would consult on the development of an 'integrated approach to diversionary services on Palm Island including a community patrol, Cell Watch Visitors program and diversion facility' (Queensland Government 2006c). The Queensland Government (2008b, 2008c) has subsequently reported that it provides funding for a cell watch program on Palm Island.

be particularly true for those diversionary options that can be described as providing merely 'diversion from' custody or the criminal justice system.[333] For example:

- Though the introduction of notices to appear may have effectively reduced the rate of arrest made by police, there has been no evaluation of the impact of the introduction of notices to appear to assess their effectiveness in comparison with arrest in deterring future offending (Weatherburn 2004, p. 32).
- There is little evidence that restorative justice conferencing is effective in reducing re-offending among adults (see Jones 2009).
- Although not conclusive, existing evidence suggests that police cautioning and referral to conferencing for juvenile offenders may be associated with greater crime prevention effects than is the case with court processing (Challinger 1981; Cunningham 2007; Dennison, Stewart & Hurren 2006; Luke & Lind 2002; Sherman, Strang & Woods 2000; Vignaendra & Fitzgerald 2006; see also Snowball 2008). In particular:
  - Thirty-one per cent of young Queensland offenders who received a caution for their first offence had further contact with the criminal justice system as a juvenile, compared with 42 per cent of those offenders whose first offence was dealt with by way of a court appearance (Dennison, Stewart & Hurren 2006).
  - Around 20 per cent of juveniles in the Northern Territory who initially received a warning or caution re-offended within the following year, compared with 39 per cent of juveniles who appeared in court (Cunningham 2007).
  - Over a longer follow-up period of five years, fewer juveniles who received a caution (42%) or participated in a conference (58%) had a subsequent court appearance for a proven offence than those processed through court (68%) after eight years (in Chen et al. 2005; Vignaendra & Fitzgerald 2006).
  - Juveniles dealt with through the court process tend to re-offend more quickly than those juveniles diverted away from it (Cunningham 2007; Vignaendra & Fitzgerald 2006).

  However, it has been found that these rates and patterns of re-offending may be influenced by a number of factors. The research evidence suggests that cautions and conferencing may be less likely to reduce future contact with the criminal justice system for:
  - male compared with female juveniles (Cunningham 2007; Dennison, Stewart & Hurren 2006; Vignaendra & Fitzgerald 2006)
  - Indigenous compared with non-Indigenous juveniles; Vignaendra & Fitzgerald (2006), for example, reported that 81 per cent of Indigenous juveniles who completed a conference re-offended within five years, compared with 56 per cent of non-Indigenous juveniles (see also Cunningham 2007; Dennison, Stewart & Hurren 2006)
  - juveniles who have been the subject of child maltreatment notifications compared with those who have not (Dennison, Stewart & Hurren 2006).

  This highlights the importance of taking multiple risk factors into account, and the inadequacy of cautioning as a crime prevention strategy when these other factors are present.[334]

333 It should be noted that such diversionary options may be effective in achieving outcomes other than crime prevention; for example, they may be effective in reducing the number of people in custody.

334 There is also some evidence to suggest that the likelihood of re-offending is affected by the type of offence being dealt with, but the exact nature of the relationship is unclear. For example, Vignaendra and Fitzgerald's (2006) findings indicate that cautioning may be more effective for juveniles who have committed offences against the person, compared with those who have committed property offences, while conferencing may be more effective for juveniles who have committed property offences, compared with those who have committed offences against the person or 'other' offences. These findings contrast with those of Sherman and Strang (2007), however, who suggest that conferencing programs for juveniles work better with more serious offenders, such as those convicted for violent crimes. Vignaendra and Fitzgerald (2006) concluded in their study that the impact of offence type 'was negligible in most instances' where a range of other factors were controlled for, and that its relationship with re-offending 'was ambiguous at best' (p. 13).

- There has been limited evaluation of diversion through bail-based support programs in Australia (Denning-Cotter 2008); in Queensland, the Conditional Bail Program, which commenced in 1994 and provides intensive youth worker support to young people on bail, was evaluated in 1999 and 2002–03 but these evaluations did not consider the program's impact on recidivism (see Venables & Rutledge 2003).
- There is a range of both police and court-based diversionary initiatives that involve drug assessment and education programs for offenders:
  - There is limited information about the effectiveness of such police diversionary initiatives. One recent study found that the evidence regarding the extent to which they are instrumental in reducing drug use and related offending behaviour at this stage is inconclusive. The study states: 'because of their positioning in the system and the relatively limited extent of intervention provided, [these initiatives] are more about diversion from the criminal justice system than about impacting on behaviour' (Wundersitz 2007, p. 60). The study concludes that we need to be realistic about our expectations of such programs, especially in terms of dealing with entrenched offenders (Wundersitz 2007, p. 60).
  - A recent study noted that such court-based drug diversion initiatives are still in an early period of operation and concluded that the evidence regarding the effectiveness of a number of Australian jurisdictions' court-based drug diversion initiatives is ambiguous and too limited to allow conclusions to be drawn (Wundersitz 2007, p. 74).[335]

Diversionary strategies, particular those strategies that are merely 'diversion from' the criminal justice system rather than 'diversion to' some more substantial treatment or intervention, have a limited ability to address the underlying causes of crime.

It should not be concluded, however, that the appropriate policy response to this evidence is to abandon or reduce support for diversionary strategies. Maximising the use of diversionary options should remain a fundamental policy objective for a range of reasons, such as to minimise the number of people in custody and thus reduce the risks associated with holding people in custody, or simply on the basis that for many offenders a diversionary strategy may provide the most cost-effective response (as many offenders are likely to desist from offending anyway).[336]

However, the important conclusion that must be drawn from consideration of this evidence is that relying on diversionary options to reduce Indigenous overrepresentation in the criminal justice system in Queensland's Indigenous communities is unlikely to be effective. In order to maximise the crime prevention effect of diversionary options in Queensland's Indigenous communities, we must be seeking to ensure that there is an appropriate level of focus on 'diversion to' treatment and intervention, rather than 'diversion from' the criminal justice system.

What role can the courts play in crime prevention?

There are two ways in which the courts may be able to exert a crime prevention effect — through the impact of:

1. The process itself
2. The sanctions imposed.

Again we consider the evidence regarding the crime prevention effectiveness of each.

335 We have dealt with the evidence regarding Drug Courts separately below.

336 It is generally true of offenders that only a small proportion of offenders making their first appearance in court ever re-appear in court again. So there is a persuasive argument that there is little point spending large sums of taxpayers' money on interventions designed to reduce re-offending among those who will stop offending of their own accord (see Weatherburn 2004, p. 138).

What is the evidence regarding the crime prevention effectiveness of court processes?

There have been a number of attempts to modify the court process itself; in part, such efforts hope to have a greater crime prevention effect. For example, in Chapter 6 we have referred to the JP Magistrates Courts that operate in some of Queensland's Indigenous communities.[337] In many jurisdictions, court processes have been modified specifically to meet the needs of Indigenous offenders. For example, the Murri Court has been implemented in Queensland, primarily in Brisbane and other large regional centres, but is now also operating at Cherbourg and Coen, and is being considered for extension to other Indigenous communities (Queensland Government 2009a). In NSW, circle sentencing provides a similar process. Each of these innovations involves the offender's community in the sentencing process.

Again there is limited evidence about the crime prevention effectiveness of such modified courts. However, a recent impact evaluation of the NSW circle sentencing courts found that it did not reduce the risk of re-offending by Aboriginal offenders (Fitzgerald 2008).[338] The AIC is currently conducting an evaluation of Queensland's Murri Court which may provide further evidence regarding the crime prevention effectiveness of the Queensland process.

The limited evidence that does exist suggests that modified court processes might not be sufficient in themselves to reduce recidivism; rather it is likely that a substantial crime prevention effect is exerted by the treatment or other interventions that may be imposed by the court as part of its sanctions.

What is the evidence regarding the crime prevention effectiveness of court-imposed sanctions?

In terms of sanctions imposed by the courts, the research evidence about their crime prevention effect is not entirely clear. For example:

- Fines are the most commonly imposed penalty in the criminal justice system. Though they may be a low-cost sanction and have other advantages, we know little about the effectiveness of financial penalties in reducing recidivism rates of convicted offenders. Few studies have been conducted in the area and those that have been conducted have produced equivocal findings (Moffatt & Poynton 2007).
- There is research also which shows that the introduction of tougher sanctions tends to have little effect on patterns of re-offending. One NSW study showed no change or only very slight change in results for recidivism of drink drivers after a well-publicised doubling of maximum penalties (Briscoe, cited in Weatherburn 2004, p. 119). However, survey research designed to consider the impact of sanctions on the likelihood of offending shows that people self-report that they would be less likely to offend when there are tougher sentences, but only when the perceived risk of apprehension is also high (Weatherburn 2004, p. 120).

There is evidence to suggest that court-ordered treatment programs such as drug treatment programs can be effective in preventing crime. For example, innovations such as Drug Court programs have become a popular approach to reducing re-offending among those whose crimes are drug related. Drug Courts place drug-dependent offenders on a program of coerced treatment and provide close judicial monitoring to ensure that offenders are complying with the program conditions and are not using illicit drugs. Drug Court programs may also include:

- incentives for progressing on the program (such as cinema tickets)

337 We discuss Queensland's JP Magistrates Courts in some detail in Chapter 17.

338 This evaluation did not find that re-offending worsened for offenders who proceeded through the circle sentencing process. This is significant as some criticise such special courts because of a perception that they are 'softer' than traditional court processes. This evaluation also did not seek to assess the effectiveness of circle sentencing against its many other objectives in addition to the reduction of recidivism of offenders.

- disincentives for non-compliance with the program (such as more restrictive program conditions, or removal from the program, or imprisonment)
- provision of social support designed to encourage them to adopt a more law-abiding way of life (such as assistance to find a job) (Weatherburn et al. 2008).

Evidence on the effectiveness of Drug Courts in reducing recidivism is generally favourable and suggests that Drug Court programs are more effective than the conventional sanctions (see Latimer, Morton-Bourgon & Chretien 2006; Lind et al. 2002; Payne 2008; Wilson, Mitchell & Mackenzie 2006; Weatherburn et al. 2008).

There is also evidence suggesting that courts can exert a crime prevention effect by imposing sanctions of imprisonment. Such sentences may prevent crime through their incapacitation effect or through the provision of effective treatment programs in prison (see the further discussion below).

What role can corrections play in crime prevention?

Incarceration

The evidence about the effectiveness of prison in terms of deterring crime is controversial and there is a variety of research results.

Studies, for example, that consider the specific deterrent effect of imprisonment on individuals (that is, which compare the re-offending rates for offenders given non-custodial sentences with re-offending rates for offenders given custodial sentences) generally find little difference in the rates of re-arrest, re-conviction or re-imprisonment.[339] Other studies, however, that consider a more general deterrent effect of imprisonment (that is, by considering a correlation between crime and imprisonment rates) generally claim to show that higher rates of imprisonment are associated with less crime (see Weatherburn 2004, pp. 122–3; Weatherburn, Vignaendra & McGrath 2009).[340]

Though there is doubt about the deterrent effect of imprisonment, there is less doubt about its incapacitation effect. Weatherburn (2004, p. 123) explains:

> The criminal justice system acts like a big filter. Those who offend seriously, and often, penetrate more deeply into the system than those whose involvement in crime is just transient. As a result, those who end up in prison tend to be among the most frequent and persistent offenders. This suggests that, even if only a small proportion of all offenders end up in prison, it may still be possible to influence crime rates through prison.

Although research tends to show that there is an incapacitation effect of imprisonment, it does not follow that longer sentences for those in prison, or imprisoning more offenders, will further reduce crime. Using imprisonment to incapacitate offenders who are less serious offenders or less criminally active, or increasing the length of sentences beyond the age at which most offenders are likely to stop offending anyway, provides diminishing, marginal returns and adds significant financial costs (see Weatherburn 2004, pp. 124–6).

Once again, engaging offenders in treatment programs while in prison can be an effective crime prevention strategy. Although the overall evidence in relation to this is mixed, research suggests that programs delivered in secure correctional facilities can be effective in reducing re-offending among certain kinds of offenders.

339 There are limits to this kind of research and difficulties in controlling for factors other than the penalty that may influence the rate and speed of re-offending. Results of particular studies vary.

340 There are also difficult methodological issues and debates associated with these studies.

Garrido and Morales (2007), for example, found that interventions for persistent and/or violent juvenile offenders — including behavioural, cognitive and cognitive-behavioural programs, group treatments, peer-to-peer support strategies, and education programs aimed at improving juveniles' basic academic skills — generally had significant, positive effects on post-release recidivism rates. These programs were found to be especially effective in reducing rates of serious recidivism,[341] although general recidivism was also typically reduced.

Community-based corrections

Corrections (including youth justice services) also have a substantial role to play in providing supervision and support to offenders serving community-based sentences, such as probation and intensive corrections orders, and also play a key role in helping prisoners to transition back into their communities after a period of imprisonment. Some non-custodial programs have been shown to be effective in reducing recidivism and to be considerably less expensive than a custodial sentence (Aos, Miller & Drake 2006). The following is a brief summary of the relevant evidence:

- Multi-systemic therapy has been shown to be very effective in reducing juvenile crime rates in the United States. Multi-systemic therapy is an intensive family-based treatment program directed at improving parental management of teenagers and helping teenagers cope with family, peer, school and neighbourhood problems. The treatment (which usually lasts four months and is provided by a specially trained counsellor) involves a variety of counselling techniques designed to encourage more effective parenting, greater family cohesion, lower levels of contact (or no contact) with delinquent peers and better school performance. Five rigorous evaluations of multi-systemic therapy have been conducted and all of them show success. One evaluation showed that, four years after treatment, there was a 28 per cent reduction in arrests and a 48 per cent reduction in rates of detention in custody (cited in Weatherburn 2004, p. 181). Western Australia and New South Wales are currently trialling an intensive supervision order program which uses the multi-systemic therapy approach that has been shown in the United States to be effective. The trials are being evaluated by the NSW Bureau of Crime Statistics (Weatherburn, Vignaendra & McGrath 2009, p. 10).
- There is some evidence that prisoners released into the community with supervision are less likely to offend than those released without supervision. One recent study conducted in NSW, however, showed no difference between the crime prevention outcomes for those on supervised or non-supervised good behaviour orders in the community. This study also found that a large number of offenders placed on supervised orders were not receiving the services, support and supervision needed for effective rehabilitation, especially in country areas (Weatherburn & Trimboli 2008). Another study found no effect of intensive supervision, but about a 17 per cent reduction in re-offending for offenders placed on treatment-oriented intensive supervision programs (Aos, Miller & Drake 2006; Weatherburn & Trimboli 2008). This evidence seems to suggest that the level of supervision and support provided to offenders is crucial to reducing re-offending.
- Evidence from the United Kingdom evaluating a 'prolific offender program' (which targets persistent offenders on the basis that the risk of offending is much higher for repeat offenders and that this small proportion of offenders account for a large proportion of offending) also points to the effectiveness of combining supervision strategies (daily monitoring by police and weekly monitoring by a corrections officer) with the provision of considerable social support (including access to treatment, assistance in obtaining housing and employment, help in looking after children and life skills training). Re-offending rates among those on the program were found to be substantially lower than those in a comparison group (cited in Weatherburn 2004, p. 136).

341 Serious offences that result in re-incarceration or re-institutionalisation

A recent AIC study (Willis 2008) of the re-integration of Indigenous prisoners on their release showed that Indigenous offenders are re-admitted to prison sooner and more frequently than non-Indigenous offenders. It recommends improved support during transition back into the community through the involvement of family and community, and increased capacity to undertake throughcare,[342] especially in remote settings.

In general, the evidence we have summarised points to the conclusion that the criminal justice system is most effective at preventing crime when it provides appropriately intense supervision, support and treatment for offenders. This appears to be true for those on diversionary options, on sanctions imposed by the courts, in prison and on community-based orders. The evidence also suggests that innovations such as Drug Courts, which use incentives and disincentives, can be effective in leveraging changes in behaviour.

Unfortunately, it appears that in the past too much reliance was placed on diversion — particularly 'diversion from' the criminal justice system — to reduce Indigenous offending, without ensuring that such diversion was going to provide the necessary 'fit' or 'dose' appropriate to the pattern of Indigenous offending. It is only by improving this match that we are likely to substantially reduce Indigenous overrepresentation. MacKenzie's (2002) review of what works to reduce recidivism among known offenders provides a reminder of the importance of getting this match correct. MacKenzie notes, for example, that merely increasing referrals to community-based services and treatment programs does not work to reduce offending; instead, the evidence suggests that effective treatment programs have to be 'structured and focused, use multiple treatment components, focus on developing skills … and use behavioural (including cognitive-behavioural) methods … and provide for substantial, meaningful contact between the treatment personnel and the recipient' (2002, p. 385).

Availability of effective crime prevention responses of the criminal justice system

There has been a long history of criticism of the failure of government to provide some criminal justice services in Queensland's Indigenous communities. We have already said in Chapter 6 that many criminal justice agencies, including those providing corrective services and youth justice services, have had a limited presence in Queensland's Indigenous communities, and this has adversely affected the provision of effective crime prevention interventions for offenders. The absence of any, or adequate, treatment and support services for offenders has been heavily criticised. Such criticism includes:

- the failure to provide an adequate range of non-custodial sentencing options, including the lack of adequate community-based supervision and treatment programs for alcohol to be used as a sentencing option (Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999; Cunneen, Collings & Ralph 2005, pp. 107, 112–13; Fitzgerald 2001, pp. 161 & 166; Johnston 1991, vol. 3; Peach 1999; Previtera & Lock 2006; see also submission of LAQ, p. 9)
- the lack of youth justice services (Cunneen, Collings & Ralph 2005, pp. 107–8; Previtera & Lock 2006)
- the limited availability of mediation and dispute resolution programs (Cunneen, Collings & Ralph 2005, pp. 102 & 108).

Diversionary options available to the court for alcohol-related offenders are also limited in Queensland's Indigenous communities; again, they are mostly available in regional centres. For example, the Cairns Alcoholic Offenders Remand and Rehabilitation Program was developed in 2003 by Cairns magistrates to provide treatment for offenders charged with public drunkenness and other public order offences. The program targets persistent offenders

342 Throughcare refers to the continuing provision of programs for offenders from prison to the community, that is, it includes support provided during incarceration, during the transition period and post-release.

who are likely to otherwise be sentenced to serve a prison term. It gives offenders an opportunity to address their alcohol-induced offending behaviour through residence at a rehabilitation facility for a period of up to one month. The program now also operates in Townsville, but it is not a diversionary option available to police in Indigenous communities (Joudo 2008, p. 35).

Because of the limited range of treatment and support programs in these communities, 'intermediary' and community-based non-custodial responses to offending behaviour have largely been absent for offenders from Queensland's Indigenous communities. A familiar pattern in these communities is that offenders are often responded to repeatedly in ways that are unlikely to have any sustainable crime prevention effect, such as:

- 'diversion from' custody or the criminal justice system
- minimal sentences of unsupervised orders, including fines (which often go unpaid)

until some point at which a custodial sentence becomes 'unavoidable' — for example, because of the seriousness of their offending behaviour or the length of their criminal history (see Cunneen, Collings & Ralph 2005, pp. 107–8; Previtera & Lock 2006).

Despite the recent improvement in the provision of treatment and support services in Queensland's Indigenous communities that we describe below, examination of the Magistrates Court sentencing data from these communities confirms that there continues to be a limited use of intermediary sentences in Queensland's Indigenous communities.

Table 16.1 shows the number and proportion of the various types of sentences imposed by the Magistrates and Childrens Courts sitting in Queensland's Indigenous communities for the two-year period 2006–07 and 2007–08.

Table 16.1: Orders imposed by specified Magistrates Courts and Childrens Courts* in 2006–07 and 2007–08

Type of order	2006–07 Magistrates Court	2006–07 Childrens Court	2007–08 Magistrates Court	2007–08 Childrens Court	Total	% of all orders	
Custodial order (imprisonment)	273	34	249	31	587	7.3%	12.0%
Custodial order (intensive correction order)	21	26	19	10	76	0.9%	
Custodial order (wholly suspended sentence)	143	–	160	–	303	3.8%	
Community service	226	131	183	125	665	8.3%	17.5%
Probation	240	103	303	97	743	9.2%	
Fines†	2095	9	2735	11	4850	60.3%	60.3%
Good behaviour bond/ recognisance order	121	55	123	71	370	4.6%	10.1%
Other (including licence disqualification and forfeiture order)	60	150	73	163	446	5.5%	
Total	**3179**	**508**	**3845**	**508**	**8040**	**100%**	**100%**

Source: Queensland Wide Interlinked Courts (QWIC) system data.

Notes: *These data include all sentences ordered for guilty defendants by the Magistrates Court (including the Childrens Court) sitting in these locations: Aurukun, Badu Island, Bamaga (which also services the other NPA communities of Injinoo, New Mapoon, Umagico and Seisa), Cherbourg, Doomadgee, Hope Vale, Kowanyama, Lockhart River, Mornington Island, Palm Island, Pormpuraaw, Thursday Island, Weipa (which services the communities of Napranum and Old Mapoon), Umagico, Woorabinda and Yarrabah. The data do not include any orders made by the Magistrates Court for Wujal Wujal, which are heard in Cooktown. They also do not include any sentence orders made by JP Magistrates Courts sitting in Queensland's Indigenous communities. The data include sentences imposed on guilty defendants for finalised matters whether resulting from a guilty verdict, guilty plea, or found guilty ex parte.

† A small number of these may be other monetary orders.

As shown in Table 16.1, sentences imposed by the Magistrates Court in Queensland's Indigenous communities include:

- fine orders for most defendants (60%)
- community-based probation or community service orders for a small proportion of defendants (18%)
- imprisonment as the next most common sanction (7%)
- wholly suspended sentences of imprisonment for only a small percentage of defendants (4%) (these orders impose a sentence of imprisonment but allow the offender to stay in the community until such time as they commit another offence; the orders provide no treatment or support)
- very rarely, intensive correction orders (1%) (these orders provide that a person sentenced to a period of 12 months imprisonment or less may serve that sentence by way of intensive correction in the community and not in a prison; for example, the offender must report to and receive visits from a corrective services officer at least twice weekly, and must also attend counselling and other treatment programs, or perform community service, for up to 12 hours a week).

The limited use and availability of intensive correction orders and probation orders, which offer the greatest opportunity to provide offenders with treatment and support outside prison, is an ongoing concern. The lack of services to support community-based sentencing options exacerbates the heavy reliance on imposition of fines for most offending behaviour in Queensland's Indigenous communities.

We heard that the reliance on fines, and their apparent ineffectiveness, was a great source of frustration to police and some magistrates. Many police commented that fines provided 'no consequence' for offenders. In some communities, the number and amount of unpaid fines accumulated through the criminal justice system is considered to be a badge of honour and apparently provides little or no deterrent to offending.[343]

The provision of programs for young offenders on community-based orders, which is the responsibility of Youth Justice Services within the Department of Communities (DOC), continues to be lacking in many of Queensland's Indigenous communities. Suspended sentences, probation and intensive supervision orders require suitable programs and intensive support and this is not available in many of the communities.

Youth justice conferencing has been available in Queensland's Indigenous communities on only a very limited basis. As we stated in Chapter 6, the DOC is responsible for the provision of youth justice services. In its submission to this inquiry, the DOC reported that in many of Queensland's Indigenous communities it only has a 'fly-in, fly-out' presence. It states that, on a six-monthly basis, non-Indigenous youth justice conference convenors visit communities to facilitate the conference referred to them. The submission also notes that under these conditions it is difficult for convenors to establish relations with the local community and ascertain which adults are best to invite to each conference (those with whom the young offender has a strong relationship) (submission of the DOC, pp. 23, 26–7). In Chapter 13 we presented QPS data indicating that, in Queensland's Indigenous communities, police only rarely refer young people to youth justice conferences. During consultations, police indicated to us that this was primarily because the inability to access conferencing to provide a swift response to offending behaviour meant that it was not an effective option.[344]

343 In Queensland unpaid fines are transferred to the State Penalties Enforcement Register (SPER), which is responsible for their collection and enforcement.

344 The courts are also able to refer young people in appropriate circumstances to a youth justice conference. We did not obtain data from the Childrens Court about the number of referrals made to youth justice conferences for defendants in Queensland's Indigenous communities, but these numbers are likely to be low for the same reason — the lack of timely availability of such conferences.

Our inquiry was told by police officers in a number of communities that they will sometimes provide informal mediation and dispute resolution services in order to deal with family and kinship-based tensions in particular. One OIC noted that he would get people together and mediate a dispute, and that things would then 'be quiet for five or six months before it might blow up again'. We also heard of some community justice groups performing a similar role from time to time.

Several submissions to our inquiry expressed the desire to see more restorative justice approaches such as community conferencing and more local mediation of disputes in these communities (submissions of the LAQ, p. 5; QPS, p .14; DOC, pp. 5–6, 23 & 26–9). For example, the QPS submission expresses its support for the expansion of restorative approaches. It suggests that the current court diversion strategy of referral of matters to mediation through the Dispute Resolution Branch of the Department of Justice and Attorney-General should be expanded within remote Indigenous communities and that consideration ought to be given to providing QPS officers with the ability to directly refer minor offences (p. 15). The advantage of such mediation as explained by the QPS is that it:

> complements traditional ways of settling disputes in Aboriginal and Torres Strait Islander communities … enabling Indigenous communities to keep ownership of disputes, to use elements of customary law and practice, and to find solutions that are in keeping with cultural values. The effect on the community can be very empowering. (QPS submission, p. 15)

What recent efforts have been made to improve the availability of treatment and support services?

Despite the allocation of substantial funding in the most recent state budgets, which has led to some programs being rolled out, there continues to be only limited availability of treatment and support services in Queensland's Indigenous communities.

Diversionary options

The limited availability of diversionary options for dealing with offenders with alcohol or drug problems has been a significant policy focus for government.

At the time of our visits, the majority of communities had no 'safe place' facilities that accept and care for people who are intoxicated or affected by drugs or volatile substances.[345] (There are few such facilities elsewhere in Queensland.)[346] The QPS submission (p. 12) notes the practical difficulties that police face in diverting intoxicated people in Queensland's Indigenous communities:

> the diversion of drunken people … to a place of safety such as a care centre or the home of a relative or friend requires the presence of a suitable environment and competent carer. Unfortunately, in the experience of police, this cannot be assured in many Indigenous communities.

When offenders are taken to a diversionary sobering-up centre by police, they are not under any compulsion to stay there and many police have told us that they have little success in diverting people to such facilities as they often simply leave. The difficulties in implementing such a strategy in Queensland's Indigenous communities, where taking a person to a 'safe place' often means taking them to their or a family member's home, have been previously

345 During our consultations, local police and community members advised the inquiry team that the local community medical centres do not generally provide 'sobering-up' beds for intoxicated people (but, of course, provide care for those in need of medical attention).

346 The Diversion from Custody Program aims to reduce the rate of Indigenous incarceration and the number of deaths in custody by providing diversionary options for intoxicated people. The program seeks to provide an intoxicated person with access to a Diversion from Custody Centre, which is a non-custodial sobering-up facility. Centres are located in Townsville, Brisbane, Cairns, Mount Isa and Rockhampton (Joudo 2008, p. 35).

documented. For example, criticism of the Management of Public Intoxication Program in a Cape York community that established a mini-bus service to take intoxicated people from the canteen to a 'safe place' describes the strategy as a 'farce'. It has been stated that the strategy provided a 'free taxi service' for intoxicated people that ended up taking people to the canteen as well as away from it, and took drunks to the homes of sober family members, immediately turning their 'safe place' into an 'unsafe place' (Alcohol and Drugs Working Group 2002).

As we have already described early in this chapter, in the last two Queensland budgets large amounts of money have been allocated as part of the most recent alcohol reforms, including to provide diversionary centres and sobering-up facilities in many of Queensland's Indigenous communities.

Caution should be exercised in devoting large amounts of money to strategies that merely provide 'diversion from' custody options in these communities rather than options that seek to provide (perhaps with some degree of compulsion) treatment programs which could more reasonably be expected to prevent a substantial amount of crime.

In terms of those kinds of programs that we described as 'diversion to' treatment or intervention, such programs in Queensland's Indigenous communities are limited. For example, there is limited access to bail support programs and there are very few local rehabilitation programs or facilities (see Queensland Government 2006a). There is one police diversionary program that is accessible to three of Queensland's Indigenous communities. The QPS's Queensland Indigenous Alcohol Diversion Program is a bail-based treatment program that is being piloted in Cairns, Townsville and Rockhampton over a three-year period from 2007. These sites offer outreach to Yarrabah, Palm Island and Woorabinda. The program is for those Indigenous people who have committed relatively minor alcohol-related offences and are alcohol dependent. Participants are diverted from further contact with the criminal justice system into treatment and case management that may involve withdrawal management, counselling, residential rehabilitation, and employment and accommodation support (Joudo 2008, p. 29; Denning-Cotter 2008). The program is to be independently evaluated, including assessment of its effect on re-offending by program participants, by the end of 2009 (Queensland Government 2009a).

As we have previously stated, the Queensland Government in recent years, particularly with the announcements of further alcohol reforms in 2008, has allocated large amounts of money to try to make alcohol and drug treatment and rehabilitation programs available in many of Queensland's Indigenous communities. Efforts to get such programs up and running have been most intensive in the four Welfare Reform Trial communities, so that the FRC is able to refer those conferenced to appropriate services in an attempt to intervene effectively in people's lives and re-establish functional social norms in these communities.

The submission of the DOC notes that improved youth conferencing services were planned, including training a number of local Indigenous conference convenors (two such convenors were said to have been trained in Cherbourg) and the creation of a number of Indigenous Conference Support Officer positions to support the role of convenor and improve conferencing outcomes for Indigenous clients (submission of the Department of Communities, pp. 27–30).

One substantial community-based project that is currently under way is the Mornington Island Restorative Justice Project, which aims to enhance the capacity of the community to deal with and manage its own disputes without violence, by providing ongoing training, support, supervision and remuneration for local mediators. This project is a three-year pilot project that has received both Commonwealth and Queensland Government support. The project completed its initial consultation and development phase in January 2009 and has conducted one community mediation (see JAG 2009b). It has now received funding for its second phase until June 2010. The evaluation of this project should be viewed with interest in order to learn more about how the potential of mediation and restorative approaches might be applied in Queensland's Indigenous communities.

Other treatment and support: Corrections and Youth Justice

Although there are continuing deficits in some areas, QCS has made notable efforts to improve the delivery of necessary support and supervisory services in Queensland's Indigenous communities in recent years. Since 2006, QCS has made significant changes away from delivering services of probation and parole officers on a 'fly-in, fly-out' basis. At this time QCS established permanently staffed reporting offices at Doomadgee, Mornington Island, Normanton and Thursday Island. In 2008, permanently staffed reporting centres were established at Aurukun and Weipa also. In 2009, a permanent staff presence was established in Cooktown, in order to service the communities of Wujal Wujal, Hope Vale and Laura (QCS 2009). It has been noted that, with staff on the ground, QCS is able 'to get a clearer picture of each offender's personal circumstances and a better understanding of family and community dynamics' (QCS 2009, p. 7). The improved information and understanding have in turn been said to have helped QCS to improve the quality and frequency of the rehabilitation programs it delivers and to provide better support to prisoners on their release. For example, QCS now provides specialist programs such as a two-day 'Ending Offending' program and a four-day 'Ending Family Violence' program at Aurukun, Pormpuraaw, Weipa and Thursday Island (QCS 2009; see also QCS 2008, pp. 28–9).

In addition to the long-term focus on developing youth justice conferences, and a more recent focus on tackling the demand for alcohol, the DOC is piloting two new youth justice initiatives in Far North Queensland — the Young Offender Community Response Service and the Bail Support Service, which are described as 'an integrated and culturally appropriate approach that targets the risk and protective factors contributing to young people's offending'. The department provided $0.6 million to ACT for Kids (formerly the Abused Child Trust) to deliver these services from July 2008, targeting factors that contribute to a young person's offending behaviour. It will provide family therapy and material support such as food and money, and help young people with educational opportunities and work skills.

ACT for Kids will receive an additional $1.2 million per year for the next three years to help young people charged with offences to maintain stable accommodation and comply with bail conditions. It is not clear to what extent these services will apply to offenders in or from the Indigenous communities (DOC 2008, pp. 27–8).

An Early Intervention Coordination Panel has commenced at Woorabinda in Central Queensland 'to reduce the number of young people in the youth justice system'. With representatives from government and community organisations, the panel links young people and their families to existing service providers (DOC 2008, p. 27).

Summary and conclusions: reducing crime and violence through criminal justice interventions

In this report we have already identified the need to focus on 'front-end' strategies outside the criminal justice system, particularly those known to be effective early in life, in order to prevent crime. In Queensland's Indigenous communities — where there are high levels of contact with the criminal justice system — it is also vital that the 'back end' of the crime prevention continuum, which is provided through the criminal justice system, is also positioned to exert the maximum possible crime prevention effect.

In this chapter we have outlined the available evidence that can inform the task of ensuring that the criminal justice system exerts its maximum crime prevention effect. Often, a poor understanding of the evidence appears to be reflected in policies and programs that aim to reduce Indigenous overrepresentation in the criminal justice system. For example, we think it is unlikely that a substantial reduction in overrepresentation of those from Queensland's Indigenous communities will be brought about by increased use of strategies that provide 'diversion from' custody or the criminal justice system alone, or through the expanded use of Murri Courts, as responding to the underlying causes of crime is not the focus of such strategies.

The available research suggests that in Queensland's Indigenous communities, in order to maximise the crime prevention effect of the criminal justice system, it needs to focus more heavily on providing a particular type of diversion — 'diversion to' treatment and support that may provide an effective intervention in the lives of offenders — rather than mere 'diversion from' custody or the criminal justice system.

It must be said, however, that increasing the use of 'diversion from' custody or the criminal justice system is not only justifiable, but to be encouraged, throughout Queensland on grounds other than those relating to crime prevention. For example, 'diversion from' strategies are likely to be very effective in reducing the number of people in custody and reducing the risks associated with keeping people in custody; they may also be the most cost-effective response for many offenders. We must also remember that research on offender trajectories generally suggests that most people desist from offending quickly anyway, without the need for interventions based on treatment and support. What we are saying is that in Queensland's Indigenous communities, where offending behaviour is common, often violent and relatively widespread, strategies that only 'divert from' custody or the criminal justice system are unlikely to provide any meaningful contribution to reducing Indigenous overrepresention. In these communities we need to develop a greater level of understanding about what particular types of diversionary strategies can be reasonably expected to achieve, especially in terms of their potential for crime prevention.

Murri Courts may also serve other important ends, but they should not be relied on to reduce Indigenous overrepresentation in the criminal justice system.

➡ Action

That the Queensland Government (especially ATSIS, the Department of Justice and Attorney-General, Youth Justice Services (Department of Communities) and Queensland Corrective Services (Department of Community Safety)), ensure that the criminal justice system in Queensland's Indigenous communities is organised to exert the strongest possible crime prevention effect based on the existing evidence about what works to prevent crime.

To reduce crime in these communities, serious efforts must be made to change the offending behaviour of those who end up in the criminal justice system, particularly repeat offenders.[347] The research into the crime prevention effectiveness of various aspects of the criminal justice system points to the need to make the provision of effective levels of supervision, treatment and support available:

- to the courts in sanctioning
- for those serving community-based orders
- in detention centres and prisons
- for prisoners on release back into the community.

Increasing the availability of intensive interventions for serious, repeat and persistent offenders from Queensland's Indigenous communities is likely to be money well spent in the sense that it is these offenders who account for a disproportionate amount of crime, and for whom the likelihood of re-offending is the highest.

347 Our conclusions in this regard fit very much with the approach underpinning the work of the FRC — the FRC conferences and case manages those referred to it, and either by agreement or order has that person access appropriate services and programs. In this way the FRC seeks to ensure that an effective intervention is provided to those who come before it. As described in Chapter 6, compliance with the agreement or order is monitored and as a last resort the FRC may make a Conditional Income Management order under which 60 or 75 per cent of welfare payments are managed by Centrelink for up to 12 months (FRC 2008; see also CYIPL 2007) (see also the *Families Responsibilities Act 2008*).

➡ Action

That, as a matter of priority, the Department of Communities and Queensland Corrective Services continue to increase the allocation of resources to improve:

- community-based support, supervision and treatment programs for offenders in Queensland's Indigenous communities
- programs within prisons and detention centres to provide treatment and intervention for offenders from Queensland's Indigenous communities.

The rule that the criminal justice system needs to provide treatment and support in order to reasonably expect to exert a crime prevention effect does not apply, however, to the process of conferencing (and perhaps some other restorative justice processes). The research evidence suggests that conferencing does have potential for preventing crime. Further, restorative justice processes may have particular resonance in Queensland's Indigenous communities for the following reasons:

- because of the prominent role played by family and kinship matters in many disputes
- because such processes can help to rebuild local authority by having local people as central to the issues to be resolved.

Because of this potential for crime prevention, the greater use of conferencing and other restorative processes involving local people in the resolution of disputes in Queensland's Indigenous communities should be supported.

➡ Action

That the Queensland Government provide greater support to restorative justice services in Queensland's Indigenous communities:

- That the Department of Communities urgently provide a sustained and sustainable youth justice conferencing program able to provide timely diversion to a process that addresses offending within a restorative justice framework.
- That the Department of Justice and Attorney-General continue to support the trial and evaluation of community-based mediation and dispute resolution processes in Queensland's Indigenous communities.

17

THE UNREALISED POTENTIAL OF LOCAL JUSTICE INITIATIVES

The criminal justice system in Queensland's Indigenous communities is especially complex. The broad model has mainstream criminal justice processes operating together with local justice components that may include the following:

- **community justice groups**
- **local community courts constituted by local Justices of the Peace (JP Magistrates Courts)**
- **local laws (community 'law and order' by-laws)**
- **local police (community police or QATSIP).**

Local justice components of the criminal justice system in Queensland's Indigenous communities continue to face challenges despite numerous recommendations and commitments made for improvements over the years. Although efforts have recently been made to improve the functioning and sustainability of these local justice initiatives, problems continue to be apparent, especially in terms of the need for better resourcing and training to support these initiatives (see Cunneen, Collings & Ralph 2005; Loban 2006; O'Connor 2008).

In this chapter we consider the question of whether local justice components in Queensland's Indigenous communities have been successful in developing effective forms of local authority to deal with crime and violence, and what more could be done to improve their effectiveness. We suggest that a fundamental change is needed and that governments must demonstrate their willingness to support the further development of local justice components so that they can have a real influence on crime and violence in these communities.

As we have dealt extensively with the issues relating to local police in Chapter 10, we focus in this chapter on other local justice elements, particularly the community justice groups, the JP Magistrates Courts and the role of community by-laws.

Support for a model incorporating local justice components

These local justice initiatives have been important in Queensland's Indigenous communities for a range of reasons:

- because it is the members of Indigenous communities themselves who are best placed to plan and implement effective strategies to deal with their crime and justice problems
- as a strategy designed to reduce the overrepresentation of Indigenous people in the criminal justice system, particularly in custody
- to increase the scope for culture or local knowledge to be taken into account in justice processes
- to fill gaps in criminal justice service delivery in Queensland's Indigenous communities (Chantrill 1998; Cunneen, Collings & Ralph 2005; Fitzgerald 2001; Limerick 2002; O'Connor 2008).

A long series of reports and government commitments have supported building local justice initiatives so that they are important components of the criminal justice system in Queensland's Indigenous communities. For example:

- The Cape York Justice Study provided probably the most comprehensive discussion of the criminal justice system in Indigenous communities and it supported a model incorporating local justice components so that justice services could be provided in a way that is sensitive and responsive to Indigenous needs and circumstances. For example, the report proposed:
  - heavy reliance on community justice groups, which were seen to have the potential to intervene in justice issues through the use of Aboriginal law and traditional dispute resolution, as well as to be involved in the formal criminal justice system
  - greater use of JP Magistrates Courts, which were seen to be an important way to increase involvement of members of communities in sentencing (Fitzgerald 2001, p. 156)
  - exploring the potential of locally developed 'law and order' by-laws to respond to local issues of concern and the possibility of issuing infringement notices for by-law offences (Fitzgerald 2001, p. 137)
  - enlisting the assistance of the QPS to train community police to enforce the by-laws and to have QPS officers enforce them (Fitzgerald 2001, p. 137).
- The independent evaluation of the Queensland and Torres Strait Islander Justice Agreement (Cunneen, Collings & Ralph 2005) and the more recent reviews of criminal justice services in the Torres Strait (Loban 2006) and Cape York (O'Connor 2008) have also promoted a system integrating local justice elements with the conventional criminal justice system.

The Queensland Government's policy, as represented in its response to the Cape York Justice Study (Queensland Government 2002), in the Queensland and Torres Strait Islander Justice Agreement (Queensland Government 2001) and in its response to the evaluation by Cunneen, Collings and Ralph of that agreement (Queensland Government 2006a), would appear to provide consistent support for a broad model of criminal justice system services in Queensland's Indigenous communities that includes local justice initiatives.

Although difficulties with particular aspects were noted, consultations and submissions generally supported such a model in which the local justice components featured in these communities.

Community justice groups

Community justice groups have been supported for a wide range of reasons — most fundamentally, that they provide a community-based response to local issues and therefore it was hoped they could be more effective than conventional criminal justice system responses in reducing Indigenous overrepresentation in the criminal justice system. It has also been suggested that they provide a valuable way in which Aboriginal law and traditional dispute resolution mechanisms can be used (ALRC 1986a; Johnston 1991, vol. 4; Fitzgerald 2001; Limerick 2002).

Community justice groups were first piloted at Palm Island, Kowanyama and Pormpuraaw from 1993. Based on the reports of initial success, the initiative has grown across the state and community justice groups now exist in many regional and urban areas also. Community justice group members are volunteers (often they are mostly women and mostly elderly), although a small amount of funding (between $83 000 and$97 000) pays for a full-time coordinator for each group and some basic operational expenses such as travel (O'Connor 2008).

Community justice groups perform a variety of roles

Administrative arrangements to support community justice groups have changed a number of times during the period of their existence. These changes may reflect that there has been a degree of uncertainty about how best to develop the role of community justice groups and how best to support them.

- Initially, community justice groups were supported by the then Corrective Services Commission, and their roles were closely linked to the need for community-based supervision of offenders.
- From the mid-1990s, administrative support for the initiative was provided by the Office of Aboriginal and Torres Strait Islander Affairs, and its later incarnations (for example, as the Department of Aboriginal and Torres Strait Islander Policy). In this period the roles of community justice groups were conceived very broadly, with a focus on developing strategies to address underlying issues relating to antisocial and unlawful behaviour (see Kristiansen & Irving 2001; Limerick 2002).
- In 2006, responsibility for community justice groups was transferred to the Department of Justice and Attorney-General (JAG) (Limerick 2002; O'Connor 2008). In consultations with senior officers of JAG involved in providing support to the groups, it was suggested that JAG is encouraging community justice groups to focus more narrowly on providing support to justice processes, such as by providing submissions at sentencing.

Despite variations in the operation of community justice groups across the different communities, and the suggestion from JAG that they should re-focus on supporting the justice system, the possible roles of the groups continue to be very broad. Community justice groups in Queensland's Indigenous communities have been, and may still be, involved in:

- assisting in court hearings (particularly in relation to sentencing[348] and bail processes)
- encouraging police to divert offenders
- supporting victims and offenders through the court process
- visiting the watch-house or prison to support offenders
- helping to supervise community-based sentences
- developing and implementing crime prevention initiatives such as night patrols and sport and recreation programs for juveniles
- providing dispute resolution.

In consultations and submissions we heard a wide range of views in relation to the roles of community justice groups. For example, we were told that community justice groups should be involved in the monitoring of detainees (submissions of the Department of Child Safety, p. 3; Napranum Aboriginal Shire Council, p. 1; individual submissions, names withheld), and that community justice groups should be involved in diversion of people who have committed minor offences (submission of the Department of Child Safety, p. 4). We heard that community justice groups should be closely involved with police in developing a 'Local Community Safety Plan' to broadly tackle the underlying causes of crime (submission of LAQ, p. 4), but it was also suggested to us in consultation that the roles of community justice groups should be restricted to supporting the criminal justice system and that they should not try to tackle social issues more broadly.

348 See s. 9(2) of the *Penalties and Sentences Act 1992* and s. 150 of the *Juvenile Justice Act 1992*.

The courts have acknowledged, in particular, the value of the input often provided by community justice groups on sentencing matters (Queensland Magistrates Court 2008, p. 88). However, it has also been acknowledged that the demands on the time of circuit courts impose constraints on the time that can be spent hearing from the community justice groups, either generally or in relation to particular matters (Previtera & Lock 2006, p. 5; Queensland Magistrates Court 2008, p. 88). Davis and Eberhardt's review of 71 cases involving Indigenous sex offenders from Cape York communities sentenced in the District Court in Cairns or Cape York showed that there were often no submissions made by the community justice groups to the court (2008, p. 10).[349]

It is possible for community justice group members to be involved in conflicting roles, such as providing support to victims and taking victim impact statements (see O'Connor 2008), as well as providing support to offenders and making submissions on sentences to be imposed on offenders.

Community justice groups in Queensland's Indigenous communities were also given a key role in the development and implementation of Alcohol Management Plans (AMPs). This role in relation to the AMPs has caused tension in some communities between the group and the council, and we heard that this tension continues. Relations between some community justice groups and the local council were described as 'hostile', and we were told that in some communities members of the groups had been intimidated and threatened because of their role in supporting alcohol restrictions. We also heard that, in some communities, drinkers and those who were opposed to alcohol restrictions had tried to gain membership and control of the community justice group (see also O'Connor 2008).

Are community justice groups effective?

Our inquiry detected that there was a large degree of support in general for the idea of community justice groups; it was frequently stated that they have a great deal of 'potential'. Others have made claims about the 'success' of community justice groups, but there has been little rigorous consideration of the effectiveness of the groups. For example:

- An early evaluation, the *Interim assessment of community justice groups* (DATSIPD 1999, pp. 6–9), stated that community justice groups had 'enormous potential', including in terms of their ability to 'make a lasting impact on levels of over-representation in the justice system'. It found that community justice groups were 'developing innovative and successful strategies for tackling community justice issues by working within the formal justice system and within the community itself'.[350]
- The Cape York Justice Study noted that many people testified to the effectiveness of community justice groups and stated that they had 'successfully undertaken crime prevention strategies targeting issues such as youth boredom, lack of support and recreational opportunities, truancy and alcohol' (Fitzgerald 2001, p. 23).
- In 2002, community justice groups were described as an initiative of 'fundamental significance' for 'self-determination and a vehicle for community empowerment'. It was claimed that 'in addressing deep-rooted justice issues, community justice groups are succeeding where mainstream justice is not' (Limerick 2002; see also Fitzgerald 2001, p. 23; Cunneen 2001a, p. 193; Kristiansen & Irving 2001).

349 Possible explanations for this low level of participation are that it may be more difficult for the community justice groups from Cape York to make submissions to the court sitting in Cairns, and it has been reported that community justice groups may be reluctant to become involved in matters involving sexual offences.

350 It appears that a great deal of reliance has been placed on the positive conclusions of the *Interim assessment of community justice groups* (DATSIPD 1999); the interim assessment looked at their operation from September 1997 to February 1998 and concluded that it was too early to make a full assessment. It recommended that a further evaluation be conducted after the community justice groups had been operating for three years.

In addition to many observers noting their potential, or claiming the initiative to be a success, there has also been a great deal of concern expressed about the actual operation of many of the groups. For example, in our consultations senior JAG officers involved in providing support to the groups said that it was generally true that they 'are not all functioning at a level that you would want for the task that we're expecting them to do' and that they were in need of capacity building.

Questions have long been raised about the ability of the largely elderly, unremunerated members of the groups to function effectively, especially given the substantial pressure imposed on them because of their conflicting roles in the community (see Chantrill 1998, p. 176; Fitzgerald 2001; Cunneen, Collings & Ralph 2005, p. 137). The need for legal protection to be provided to community justice group members has been noted on a number of occasions[351] (Fitzgerald 2001; Alcohol and Drugs Working Group 2002) and concerns have also been raised about the sustainability of many of the groups in light of the age of members and the lack of succession plans (Cunneen, Collings & Ralph 2005).

Effectiveness of the groups often depends heavily on the skills, ability and commitment of the members and of the coordinator. It has previously been identified that many of the group members are inadequately skilled and resourced for the work they are required to do and many of the groups are heavily reliant on one or more key people to carry out their functions.

Need for training and support

The need for more resourcing and improved training for community justice groups has been an ongoing theme. For example:

- Fitzgerald's (2001) Cape York Justice Study described improved support and capacity building of the groups as being 'essential' to their effectiveness (p. 118).
- Cunneen, Collings & Ralph (2005) recommended that resourcing of the groups be improved and that the groups be funded by all justice agencies that use their services.
- O'Connor (2008) more recently recognised the myriad competing demands and functions imposed on members, and recommended that the roles and activities of community justice groups be prioritised and that their training program reflect the needs of individual members and their communities.
- Loban's (2006) report noted that there was only one community justice group funded in the Torres Strait Islands, on Thursday Island, so many communities did not have an avenue for formal input into the court's sentencing process (p. 27).

A number of submissions to our inquiry also argued that community justice group members should be paid and that more support for the groups was needed (submissions of Queensland Health, p. 3; Queensland Corrective Services, p. 3; individual submission, name withheld, p. 2; LAQ, p. 3; JCU Law School, p. 18).

Some progress has been made in recent years towards improving the resourcing and training of community justice groups since their transfer to JAG. For example:

- Funding was provided to expand their activities in the Torres Strait Islands and to train members from the outer islands about their role in supporting local people facing charges.[352]
- A number of community justice group coordinators and members across the state have been trained in business governance to improve their groups' operations. Training in mediation and dispute resolution has also been provided.

351 To some extent this issue has been addressed by amendments subsequently made to the relevant legislation (see s. 19 of the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*).

352 This role has become especially important since the expansion of the court circuits to Torres Strait islands beyond Thursday Island and Badu Island (see Chapter 18).

- A Statewide Community Justice Reference Group has also been established from May 2008 to enable Indigenous input into the ongoing implementation and monitoring of the Queensland Aboriginal and Torres Strait Islander Justice Agreement, and to provide a mechanism for the provision of advice to government on Indigenous community justice issues.[353] At their second meeting in November 2008, the Reference Group considered ways to improve the functioning and outcomes delivered by community justice groups and a subcommittee has been established to analyse the roles and activities of community justice groups to better inform suitable funding arrangements (JAG 2009a).

How can the potential of community justice groups be realised?

Though they may have had some successes, it seems likely that community justice groups have had little substantial effect in terms of reducing the overrepresentation of community members in the criminal justice system. For more than a decade, community justice groups have been central to the efforts made in Queensland to reduce Indigenous overrepresentation, yet it remains very high and crime and violence problems in these communities do not appear to be abating. This raises the question of whether community justice groups can be said to have failed, or whether their potential simply remains unrealised.

Certainly, though one of the key roles of community justice groups — providing community input on sentencing options to the court — may be important, it is only likely to exert a marginal effect, at best, on reducing crime and violence. It is our view that community justice groups generally have not been supported by a bold enough vision, have not been adequately resourced or provided with the capacity-building efforts needed, and have not had the real power (or incentives and disincentives) available to them in order to be able to substantially influence the behaviour in their communities.

It was clear to our inquiry that there are ongoing issues about the role of community justice groups and the level of support provided to them. Given the extent of criticism about their resourcing and support, and the continuing uncertainty about their roles and purpose, we believe that it is time for the roles and powers of community justice groups to be revisited — both to clarify how potentially conflicting roles should be dealt with, and to develop innovations in order to:

- Provide greater support so that they can take a leadership role in setting the standards that are to apply to behaviour in their communities.
  - It has previously been suggested that, for example, they should be given the power to promulgate local 'law and order' by-laws (Alcohol and Drugs Working Group 2002).
  - It has also previously been suggested that they play the key role in terms of the negotiation of the crime prevention and criminal justice components of local-level plans (see, for example, Fitzgerald 2001).
- Otherwise support the development of authority and influence for this group of leaders within the communities. For example, it has previously been suggested that community justice groups should be given the power to issue formal orders to compel[354] people to:
  - attend mediation and dispute resolution
  - attend counselling in cases of family violence and relationship problems
  - attend conferencing, in the case of children

353 The Reference Group consists of two community justice group representatives from each of six regions in Queensland, together with representatives from the judiciary, Aboriginal and Torres Strait Islander Legal Services, Legal Aid Queensland, JAG and other Queensland Government departments.

354 It has been suggested that it should be an offence for people not to comply with such an order made by the community justice group.

- attend conferencing, in the case of parents and guardians, where their children are involved in offences and disputes
- make arrangements for the management of income support payments, where it is in the best interests of dependants
- attend rehabilitation.

Depending on the results of the evaluation of the Welfare Reform Trial and the Family Responsibilities Commission, it may be the case that the community justice groups (in isolation or in conjunction with other local justice components such as the JP Magistrates Courts) could be adapted to incorporate elements of the Family Responsibilities Commission model.

JP Magistrates Courts

JP Magistrates Courts are constituted by community members who are specially trained justices of the peace and who can deal with guilty pleas for by-law offences and some criminal offence matters. JP Magistrates Courts have been developed since 1997. They do not operate exclusively in Queensland's Indigenous communities, but are now established in 14 of these communities, although they are not all active. Recent legislative amendments allow for a small daily sitting fee to be paid to JPs when constituting a Magistrates Court in Indigenous communities.[355] The JP Magistrates Courts program receives administrative support from the Department of Justice and Attorney-General.

There has been a lot of support expressed for local courts to play an important role in the administration of criminal justice in Queensland's Indigenous communities for reasons such as the following:

- They are community driven; therefore they are able to provide justice in a way that is more relevant and responsive to community needs and can contribute to a greater sense of community ownership and involvement in the justice system and in sentencing (see, for example, Cunneen, Collings & Ralph 2005).
- They are also seen as having considerable potential to provide more regular court sittings and help to overcome the delays associated with waiting for the Magistrates Court circuits (see, for example, O'Connor 2008).[356]

The Cape York Institute for Policy and Leadership submission to our inquiry expressed its strong support for locally constituted JP Magistrates Courts enforcing local laws as a sound model for overcoming law and order problems in Indigenous communities (submission of the CYIPL, p. 4; see also individual submission, name withheld, p. 110).

A number of previous reports have recommended the expansion of the availability of JP Magistrates Courts (see Fitzgerald 2001; Loban 2006; O'Connor 2008). In response, in recent years JAG has applied resources to deliver an extensive training program with the aim of establishing more regular sittings of these courts across the communities. For example:

- progress has been made to expand the JP Magistrates Courts services in the Torres Strait Islands, with JP Magistrates Court training provided at Thursday Island, Badu Island and Mer Island and the swearing-in of five additional JP (Magistrates) from Thursday Island and seven from Mer Island (Loban 2006)

355 See 2007–08 amendments to the *Justices of the Peace and Commissioners for Declarations Act 1991* (see also JAG 2008, p. 39).

356 O'Connor (2008) suggests that they have considerable scope for reducing the workload of the Magistrates Courts by taking on more of the relatively 'minor' matters such as public nuisance offences. As explained in Chapter 4, many such 'minor' matters are likely to involve violence or threats of violence. However, we do agree that there is scope to use the JP Magistrates Courts to relieve some of the burden on the Magistrates Courts.

- in 2007–08 training was delivered to communities at Palm Island, Cherbourg, Bamaga (Northern Peninsula Area), Lockhart River, Aurukun, Coen, Hopevale and Woorabinda (JAG 2008, p. 47)
- there is a continuing focus by JAG on training and capacity building for JP Magistrates Courts in the four Welfare Reform Trial communities of Aurukun, Hope Vale, Coen and Mossman Gorge (JAG 2009a).

Are JP Magistrates Courts effective?

In the past, data have not been available to determine the numbers and types of matters dealt with, or the penalties imposed by, these courts. Because the impact of these courts has been largely unexamined, we sought and received data from JAG on the types of matters heard by the Magistrates Courts and the JP Magistrates Courts in Indigenous communities and on the penalties imposed by those courts. Table 17.1 shows the number of defendants proven guilty in specified Magistrates Courts in the 2006–07 and 2007–08 financial years by offence category and judicial officer type.

As Table 17.1 shows, in those communities with active JP Magistrates Courts and 'law and order' by-laws, JP Magistrates Courts do appear to relieve some of the burden from the Magistrates Court circuit, although the extent of that relief is not clear. For example, Kowanyama JP Magistrates Courts dealt with:

- 461 (76%) of the 608 defendants who were proven guilty of offences in the Magistrates Court in 2006–07, including all 293 defendants proven guilty of by-law offences
- 269 (56%) of the 485 defendants who were proven guilty of offences in the Magistrates Court in 2007–08, including all 209 proven guilty of by-law offences.

Although at first glance these data suggest that the Kowanyama JP Magistrates Court is shouldering a significant proportion of the work that would otherwise be done by the Magistrates Court, further examination of the 2006–07 by-law offences revealed that 200 of these were truancy-related offences — that is, people charged with failing to ensure that a child attended school — which would otherwise be unlikely to proceed to prosecution in the Magistrates Court under Queensland's state laws (see the discussion in Chapter 15).[357] Though this may suggest that the JP Magistrates Court is able to provide a response to local issues that may otherwise be lacking, it does suggest that it may not be relieving as much of the Magistrates Court workload as at first appears. However, leaving aside the by-law offences,[358] the data for 2006–07 still show that the Kowanyama JP Magistrates Court is hearing more than half (n = 168, 53%) of the Magistrates Court matters in which a defendant is proven guilty.

357 Pers. comm., JAG officer, 6 May 2009. Although we did not examine these data in more detail, it is likely that the 2007–08 data also include a number of truancy offences, reflecting the pattern displayed in the previous year.

358 We discuss this further later in the chapter under the section on by-law offences.

Table 17.1: Number of defendants proven guilty in specified Magistrates Courts, Childrens Courts and JP Magistrates Courts* in the financial years 2006–07 and 2007–08 by offence category and judicial officer type

Financial Year	Location	Childrens Court Magistrate			Magistrate			Justice of the Peace			Total		
		By-law offences	Other	Total	By-law offences	Other	Total	By-law offences	Other	Total	By-law offences	Other	Total
2006–07	Aurukun	–	84	**84**	–	301	**301**	–	49	**49**	–	434	**434**
	Badu Island	–	3	**3**	–	68	**68**	–	–	**–**	–	71	**71**
	Bamaga	–	48	**48**	–	152	**152**	–	–	**–**	–	200	**200**
	Cherbourg	–	42	**42**	4	125	**129**	103	8	**111**	107	175	**282**
	Doomadgee	–	26	**26**	–	215	**215**	–	15	**15**	–	256	**256**
	Hope Vale	–	–	**–**	–	–	**–**	–	–	**–**	–	–	**-**
	Kowanyama	–	6	**6**	–	141	**141**	293	168	**461**	293	315	**608**
	Lockhart River	–	5	**5**	–	172	**172**	–	–	**–**	–	177	**177**
	Mornington Island	–	23	**23**	–	250	**250**	–	109	**109**	–	382	**382**
	Palm Island	–	55	**55**	7	435	**442**	–	–	**–**	7	490	**497**
	Pormpuraaw	–	4	**4**	–	141	**141**	–	–	**–**	–	145	**145**
	Thursday Island	–	16	**16**	–	220	**220**	–	12	**12**	–	248	**248**
	Weipa	–	80	**80**	0	402	**402**	–	–	**–**	–	482	**482**
	Woorabinda	11	84	**95**	2	220	**222**	51	68	**119**	64	372	**436**
	Yarrabah	–	21	**21**	25	299	**324**	29	–	**29**	54	320	**374**
	Total	**11**	**497**	**508**	**38**	**3141**	**3179**	**476**	**429**	**905**	**525**	**4067**	**4592**
2007–08	Aurukun	–	90	**90**	–	565	**565**	–	7	**7**	–	662	**662**
	Badu Island	–	3	**3**	–	36	**36**	4	–	**4**	4	39	**43**
	Bamaga	–	38	**38**	–	186	**186**	–	–	**–**	–	224	**224**
	Cherbourg	–	103	**103**	5	174	**179**	76	24	**100**	81	301	**382**
	Doomadgee	–	20	**20**	–	268	**268**	–	–	**–**	–	288	**288**
	Hope Vale	–	1	**1**	–	20	**20**	–	–	**–**	–	21	**21**
	Kowanyama	–	6	**6**	–	210	**210**	209	60	**269**	209	276	**485**
	Lockhart River	–	24	**24**	–	195	**195**	–	11	**11**	–	230	**230**
	Mornington Island	–	19	**19**	–	380	**380**	–	176	**176**	–	575	**575**
	Palm Island	–	32	**32**	5	368	**373**	–	–	**–**	5	400	**405**
	Pormpuraaw	–	1	**1**	1	138	**139**	86	–	**86**	87	139	**226**
	Thursday Island	–	16	**16**	–	264	**264**	–	4	**4**	–	284	**284**
	Weipa	–	51	**51**	–	375	**375**	–	–	**–**	–	426	**426**
	Woorabinda	10	62	**72**	9	259	**268**	57	11	**68**	76	332	**408**
	Yarrabah	–	32	**32**	3	384	**387**	23	–	**23**	26	416	**442**
	Total	**10**	**498**	**508**	**23**	**3822**	**3845**	**455**	**293**	**748**	**488**	**4613**	**5001**

Source: Queensland Wide Interlinked Courts (QWIC) system data.

Notes: *These data include all matters for guilty defendants by the Magistrates Court, Childrens Court and JP Magistrates Court sitting in the following locations: Aurukun, Badu Island, Bamaga (which also services the other NPA communities of Injinoo, New Mapoon, Umagico and Seisia), Cherbourg, Doomadgee, Hope Vale, Kowanyama, Lockhart River, Mornington Island, Palm Island, Pormpuraaw, Thursday Island, Weipa (which services the communities of Napranum and Old Mapoon), Umagico, Woorabinda and Yarrabah. The data do not include any orders made by the Magistrates Court for Wujal Wujal, which are heard in Cooktown. The data include all guilty defendants for finalised matters whether resulting from a guilty verdict, guilty plea, or found guilty ex parte. As we noted in Chapter 6, the JP Magistrates Courts only deal with people pleading guilty to offences.

The data also confirm information received during our consultations that the contribution of these courts varies greatly within communities, over time and across communities. For example:

- The JP Magistrates Court in Pormpuraaw did not appear to sit at all in 2006–07 and then dealt with 86 (38%) of the 226 defendants proven guilty in the Magistrates Court in 2007–08. These were all by-law offences and constituted all but one of the defendants proven guilty of by-law offences that year (the other one was dealt with by the Magistrates Court).
- In Aurukun, which does not have 'law and order' by-laws, the JP Magistrates Court dealt with 49 (11%) of the 434 defendants proven guilty in the Magistrates Court in 2006–07 but only 7 (1%) out of 662 in 2007–08.[359]
- Mornington Island is another community which, although it has no 'law and order' by-laws, has an active JP Magistrates Court, dealing with nearly a third of the matters proven guilty in the Magistrates Court (n = 109, 29% of the matters in 2006–07 and n = 176, 31% in 2007–08).
- Woorabinda JP Magistrates Court dealt with 27 per cent (n = 119) of the defendants proven guilty in 2006–07, most of which involved offences other than by-laws, while in 2007–08 this dropped to around 17 per cent (n = 68), most of which involved by-law offences.

It is clear from the data presented in Table 17.1 that the courts are very active in some communities and virtually inactive in others. Our consultations revealed some possible explanations for the variability — including lack of interested or suitable[360] community members to qualify as JPs, people's unwillingness to sit on the court for fear of retaliation, lack of administrative support to schedule and organise the courts, lack of suitable offences (such as by-law offences) to be heard by the courts, and unwillingness of police to list simple offences before the courts — but there has been no proper evaluation of the courts to establish the extent to which these or other factors inhibit their operation.

During our consultations, other concerns were expressed about the operation of the JP Magistrates Courts. People who appear before the JP Magistrates Court rarely have access to legal advice and are rarely legally represented. Some people were concerned about the 'quality of justice' being administered in JP Magistrates Courts where it is possible for people to be sentenced to periods of imprisonment without having had legal advice or representation. As we stated in Chapter 6, the advice provided to us by JAG was that the JP Magistrates Courts, although empowered by the legislation to impose penalties including imprisonment, were discouraged from imposing custodial penalties and therefore were not making such orders.[361] Our examination of the data provided by JAG for 2006–07 and 2007–08 revealed that there were no defendants whose matters were heard by those courts who had any of the following orders imposed:

- custody in a correctional institution
- custody in the community
- a wholly suspended custodial sentence.

The orders that were imposed on defendants proven guilty by specified JP Magistrates Courts are set out in Table 17.2.

359 The QPS has started to list simple offence matters before the JP Magistrates Courts, and Aurukun plans to hold monthly JP Magistrate Courts in 2009 (Queensland Government 2009a, p. 13).

360 That is, community members without disqualifying criminal convictions to qualify as JPs.

361 Matters serious enough to warrant imprisonment would be adjourned to the next Magistrates Court circuit.

Table 17.2: Orders imposed by specified JP Magistrates Courts

Order imposed by JP Magistrates Court	For by-law offences		For other offences	
	2006–07	2007–08	2006–07	2007–08
Community service order	–	–	3	5
Probation order	1	–	15	–
Monetary order	246	309	652	593
Good behaviour/recognisance order	–	–	1	–
Other[362]	229	146	234	150

Source: QWIC system, provided by JAG.

Notes: These data include all orders imposed in the JP Magistrates Courts sitting in the same locations as in Table 17.1, although, as can be seen from Table 17.1, only a limited number of these locations had active JP Magistrates Courts.

How can the potential of JP Magistrates Courts be realised?

It is disappointing that no thorough evaluation of JP Magistrates Courts has been conducted to date to help determine how these local courts can most effectively contribute to reducing crime and violence in Indigenous communities and how best to resource the program. This is particularly disappointing given that the possible difficulties with JP Magistrates Courts have been highlighted (Fitzgerald 2001, p. 158) and that it appears an evaluation has been planned for some time but has not yet been conducted.

- The Cape York Justice Study reported that JAG would:
  - evaluate outcomes relating to Indigenous JP Magistrates, particularly with respect to recidivism, culturally appropriate processes, and other community justice issues
  - examine the issues of conflict of interest, legal representation, appeals against sentences, the recording of evidence and future resource implications (Fitzgerald 2001).
- The evaluation by Cunneen, Collings and Ralph (2005, p. xxviii) of the Queensland Aboriginal and Torres Strait Islander Justice Agreement noted that JAG's Indigenous Justice Strategy made a commitment to evaluate the outcomes of the JP Magistrates Courts with respect to recidivism, culturally appropriate processes and other community justice issues. Cunneen, Collings and Ralph also called for an independent evaluation of the outcomes of the JP Magistrates Court, and the government's response included a commitment to conduct the evaluation in the 2006–07 financial year (Queensland Government 2006a).
- JAG recently transferred responsibility for the JP Magistrates Courts from its JP Branch to the Courts Innovation Program and at this time announced that in the future it would 'evaluate the Justices of the Peace (Magistrates Court) program' (JAG 2008, p. 53).

An evaluation is needed to determine whether JP Magistrates Courts are achieving their aims and delivering quality, accessible justice to these communities. This evaluation needs to be conducted as a matter of priority so that funds directed towards training and resourcing these courts are optimally applied. The results of the evaluation are likely to have implications for resourcing other aspects of the system such as access to legal advice, court administration support from police and clerks of the court, an information hotline or help desk for JP court members (as proposed by O'Connor in 2008), and educating police and community police about the by-laws.

362 'Other' includes the following order types — convicted not further punished, admonished and discharged, reprimanded and cautioned.

The evaluation should be premised on the notion that local justice components, including the JP Magistrates Courts, have the potential to make an important contribution to dealing with the crime and violence problems in Queensland's Indigenous communities, but that we may need to be more innovative in our approach if this potential is to be realised. For example, consideration could be given to making a range of incentives and disincentives available to the court to encourage offenders to comply with orders (see Chapter 16). As we have stated above, if the Family Responsibilities Commission is shown to be successful, the JP Magistrates Court model (in isolation or together with other local justice components) could be adapted to include some of the elements of that model.

'Law and order' by-laws

We have already explained that some communities have 'law and order' by-laws co-existing with the state's criminal laws. The main reasons such 'law and order' by-laws were originally developed were to provide enforcement powers to community police and to enhance the self-management of these communities by local people and leaders.

We have also already described the variability in the existence of community 'law and order' by-laws (see Chapter 6) and we have seen the variability in the extent to which existing by-laws are enforced and used instead of, or in addition to, state criminal law offences in our discussion of the JP Magistrates Courts above. In some communities, especially those that have had or have community police or QATSIP officers and operative local courts, by-laws have been a significant element of the system, allowing offences of a relatively 'minor' nature to be dealt with at the local level by local courts.

Are 'law and order' by-laws effective?

In general our consultations revealed that many communities strongly supported the 'law and order' by-laws and it appears that this support was intertwined with the support for community police or QATSIP and, to a lesser extent, the support for local courts and local justice. A number of previous reports have noted the importance of 'law and order' by-laws:

- The Cape York Justice Study referred to the potential for community by-laws to be an effective community-based intervention to deal with local crime and justice problems, citing information that councils and community justice groups initiated campaigns targeting issues such as school attendance through use of the by-laws. However, it also noted that, although many communities had by-laws and could initiate campaigns to enforce the by-laws through the community police and the JP Magistrates Courts, in practice such campaigns were rarely sustained for significant periods (Fitzgerald 2001).
- The more recent review of Cape York justice services considered that 'law and order' by-laws provide an important local mechanism to attempt to modify behaviour and focus attention on issues that are important to each community. It recommended strengthening the applicability and content of local laws. For example, the report highlighted the potential of using by-laws to respond to petrol sniffing problems when they arise (O'Connor 2008, pp. 20–1).

The submission of the Cape York Institute for Policy and Leadership to this inquiry strongly supports the continued existence and enforcement of by-laws, arguing that local laws provide one more mechanism to assist in improving law and order when the state justice system is failing Indigenous communities. The submission argues that 'law and order' by-laws have advantages such as:

- they can be tailored to the needs of Indigenous communities in a way that state laws cannot be, even when these try to address the same subject matter; it has been suggested that by-laws could be used to respond to problems such as foetal alcohol syndrome, petrol sniffing, gambling and truancy (submission of CYIPL, pp. 4–7)

- they could be promulgated simply by establishing a set of model local laws (to avoid unsatisfactory delays in the state process approving local laws) (submission of CYIPL, pp. 4–7; see also individual submission, name withheld, p. 110).

We have said in Chapter 15 that feedback we received during our inquiry was that the state laws for dealing with truancy are virtually unworkable and we have seen some evidence of by-laws being used to respond to the problem of truancy — the data we referred to above on Kowanyama JP Magistrates Courts provide a good example of how the local justice mechanisms can work together to be responsive to a community problem. Interestingly, the Queensland Government Quarterly Reports show that Kowanyama for the same 2006–07 and 2007–08 period had one of the better rates of average school attendance of all of the communities (about 78%), although it was still below the state average rate for the same period (91%) (Queensland Government 2008d, p. 52).

However, though they may have potential, there are also problems associated with the use of 'law and order' by-laws in Queensland's Indigenous communities:

- Sporadic use of the by-laws and uncertainty about their enforcement. In the past it has been noted that difficulties have arisen in relation to the high turnover in state and community police and consequent lack of awareness among police of the range of by-laws and appropriate processes for their enforcement (Fitzgerald 2001, p. 136). The Cape York Justice Study recommended that police assist in training community police in relation to by-laws and that they assist in enforcing the by-laws (2001, p. 137).
- Loban's (2006) review of the Torres Strait Island justice services noted that there were 15 local councils at that time that had 'law and order' by-laws. However, she reported considerable confusion within the communities about the by-laws — what they were and who could enforce them — resulting in considerable under-use. Loban suggested that there should be increased training and awareness-raising for councils, community members and community police about the substance of by-laws and their operation.
- O'Connor (2008) reported that local laws had received a mixed response from councils.

There are possible consequences arising from the inconsistent application of by-laws across Queensland's Indigenous communities. For those communities without such by-laws, the police can exercise their discretion to divert some offenders from the formal criminal justice process using mediation or dispute resolution processes (depending on the capacity of community justice groups or others to provide this), cautioning or electing to take no further action. In those communities with 'law and order' by-laws, police have the further option of charging a person under the by-laws for behaviours that would otherwise constitute criminal offences, such as public drunkenness, property damage and assault. This means that:

- a person in one community may have a criminal conviction recorded for an offence that is based on the same behaviour for which a person in another community may be found guilty of a by-law offence and not have a criminal conviction recorded
- the crime statistics for the communities are not entirely comparable, as the use of by-laws in some communities may hide the true extent of crime, including violence and threats of violence that may be dealt with under the by-laws
- fine amounts paid go to council rather than into the state's general consolidated revenue; it was suggested by some during consultations that this puts greater pressure on offenders to pay their fines.

With the phasing out of community police and QATSIP officers, it is likely that the confusion about the use of by-laws may have grown and that their use may decline or become more sporadic.

We were made aware during our consultations that, in the past, communities had sometimes become frustrated at their inability to promulgate the 'law and order' by-laws because of the state interests checks that were conducted to ensure that there was no inconsistency between the by-laws proposed and existing state laws. The accompanying text box provides some details of this in relation to past attempts too impose 'curfews'.

Community proposals to control juvenile offending and antisocial behaviour through curfews

We were made aware during our inquiry of various attempts made in a number of communities, usually led by the council, to impose a curfew on the 'frightening' situation of young people 'running wild' and offending on the streets at night. Both Aurukun and Woorabinda, communities known to have a serious juvenile crime problem (see Chapter 4), have proposed such a curfew in the past for example. In Woorabinda we were told a by-law was drafted in 2007 to impose a curfew to 'get parents to take responsibility for their young people'. It was hoped that the curfew would be enforced by police and the community justice group. However, after the draft by-law was provided to the Queensland Government for advice, the curfew was not proceeded with.

How can the potential of 'law and order' by-laws be realised?

The Queensland Government has been in the process of reviewing local laws for some time, including problems associated with the use of 'law and order' by-laws in Indigenous communities and the possibility of formulating a set of model 'law and order' local laws. It is currently in the process of reviewing and amending the legislative framework governing Queensland's Indigenous communities as part of a policy shift towards mainstreaming the Indigenous local governments. Most recently, we understand that the Department of Infrastructure and Planning (formerly the Department of Local Government, Planning and Sport and Recreation) will be working with ATSIS to undertake a review of the legislative provisions relating to the 'law and order' by-laws within the next 12 months.[363]

In the meantime, it appears that much of the training for the JP Magistrates Court members provided by JAG is focused on the hearing of by-law offences as part of a capacity-building approach to support a local justice system. In its response to the O'Connor (2008) report, JAG (2009a) indicated that it supports its recommendation to strengthen the content and applicability of local laws and stated that it will consult with the Department of Local Government, Planning, Sport and Recreation (now the Department of Infrastructure and Planning) to look at 'law and order' local laws.

No decision should be made to abolish or wind back the 'law and order' by-laws. We encourage the continuing commitment, or re-commitment, to providing a criminal justice model in Queensland's Indigenous communities that incorporates local justice elements, including 'law and order' by-laws. However, we also acknowledge that improvements must be made (on the basis of evaluative evidence where appropriate, or to simply trial innovations).

363 This will form part of the review of the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, which will also review the community police provisions contained in that Act (pers. comm., Project Manager, Local Government Act Review Team, 20 July 2009).

When it is conducted, we propose that the evaluation of the JP Magistrates Courts must also consider the extent to which the community 'law and order' by-laws contribute to the effective delivery of local justice in these communities. This evaluation should be designed in a way that can, among other things:

- compare the operations of the courts in those communities that have local 'law and order' by-laws, and/or local Indigenous police (community police or QATSIP), with the operations of courts in those that do not
- assess the extent to which the JP Magistrates Courts can reduce the demands on the circuit courts
- recommend ways of enhancing the ability of the JP Magistrates Court to deal creatively and responsively with local problems.[364]

This evaluation will need to be undertaken in close consultation with the Department of Infrastructure and Planning and ATSIS in relation to the development of a clearer strategy to support local 'law and order' by-laws. The evaluation of the JP Magistrates Courts then should provide a better evidence base to be used to clarify and develop the approach to 'law and order' by-laws.

Has commitment to a criminal justice system model incorporating local justice components wavered?

It is clear that the role and operation of the 'law and order' by-laws is closely connected to JP Magistrates Courts and to the other local justice components of the criminal justice system in these communities. Despite widespread support for, and the apparent numerous government commitments to, implementing a model for delivering criminal justice system services that incorporates these local justice initiatives, we have seen that there is a great deal of confusion surrounding this framework. This is of particular concern, given that the effective operation of various elements of this 'system' is interdependent with the effective operation of other aspects. For example:

- local 'law and order' by-laws allow enforcement action to be taken by local police (community police and QATSIP officers)
- local 'law and order' by-laws allow offences of a relatively minor nature to be dealt with at the local level by local courts (JP Magistrates Courts).

The lack of a clear policy framework — or whole-of-government commitment across the various agencies involved — can result in considerable energy and resources being wasted as, for example, a gap in the system may reduce the effectiveness of other elements. In terms of local laws, local courts and local police, the 'system' in recent years appears to be in something of disarray, as:

- In response to the recommendations of various reviews, JAG has for several years devoted resources and effort to continuing to expand and improve the training for JP Magistrates Courts, encouraging those courts to sit regularly, with a focus on hearing offences under the by-laws (see, for example, JAG 2009a).
- In 2006, however, the government in its response to the evaluation of the Aboriginal and Torres Strait Islander Justice Agreement decided to abolish QATSIP and phase out community police, apparently without considering how this might affect other elements of the 'system' such as local laws and local courts (see Queensland Government 2006a).
- There has been growing uncertainty about the role of by-laws. The Department of Infrastructure and Planning is now undertaking a further review of 'law and order' by-laws.

364 It is possible that the operation of the JP Magistrates Courts can be improved and informed by the experience of the Family Responsibilities Commission in the Welfare Reform Trial communities. In particular, offenders could be provided with a range of programs and services designed to intervene to break the cycle of offending more effectively than is done through fines.

Despite an apparent commitment made in the past by the Queensland Government to a model for delivering criminal justice services in Queensland's Indigenous communities that incorporates local justice elements, some agencies are not delivering in accordance with this policy or they appear to have departed from it.

Along with others before us, it is our view that the model that should operate in these communities is one which must include local justice elements (these may variously include community justice groups, local courts, local laws and Indigenous people in policing roles). It is important that the Queensland Government gets its agencies to commit (or re-commit) to the model so that there is not wasted effort as a result of gaps in the system.

Although we argue that there must be a model of criminal justice system service delivery to which all agencies provide sustained commitment, we also recognise that, though the overarching model in these communities should be broadly the same, there will be variations across the communities. There is no 'one size fits all' approach possible to crime prevention, policing and criminal justice system services that will meet the needs of Queensland's Indigenous communities. The communities have different levels of local involvement in policing; some have by-laws and active JP Magistrates Courts, while others do not; some have well-functioning community justice groups with the capacity to deliver a broad range of services, while others have very limited capacity; and the dynamics of each community and the nature of its crime and justice problems differ. The Queensland Government clearly accepts the notion that there is no 'one size fits all' approach appropriate to these communities and it is reflected in the 'place-based' approach to service delivery in these communities taken by the Indigenous Government Coordination Office and now ATSIS (see Chapter 2).

Accordingly, we consider that the crime prevention and criminal justice component of local plans (currently referred to as LIPs) should document the agreed model for the operation of local justice elements of the criminal justice system in each Indigenous community. The plan should also document the extent to which each agency, and the community, will contribute to the operation of each local initiative to be included in the model. Such plans should provide clarity for government agencies who will be needed to provide the services and for the community itself.

Summary and conclusions: unlocking the potential of local justice initiatives

The Queensland Government's position over a period of time has been that local justice initiatives developed and 'owned' at the community level — including community justice groups, local 'law and order' by-laws, and local courts — are to play a key role in the delivery of justice services and are to operate alongside the mainstream system in these communities. We agree with those who have asserted that local justice components have the potential to be an important source of local authority to deal with local problems; unfortunately, however, this potential appears to be generally unrealised.

A great deal of reliance appears to have been placed on community justice groups, really on the basis of an early interim review which could only show that they had potential to make a contribution to crime prevention and the delivery of fair and accessible criminal justice services in Queensland's Indigenous communities. Although JAG has been making efforts to improve the training and support provided to community justice groups in recent years, these groups continue to wrestle with problems of sustainability, capacity and their role. Given the nature of the crime problems confronting these communities and the longstanding gaps in service delivery, it is not surprising that the community justice groups, as they are currently conceived, continue to struggle to cope with the often competing demands that have been made on them.

Little close examination has been made of the operation of JP Magistrates Courts and their evaluation is well overdue.

There is a great deal of confusion and uncertainty about the role and future of 'law and order' by-laws, particularly since the decision was made to phase out community police and abolish QATSIP; this adds to the difficulties of ensuring that the JP Magistrates Courts are operating optimally.

We believe there must be a renewed commitment by all agencies and the community to support a model in which local justice initiatives play a role. There must also be a re-think regarding the future development of local justice initiatives. In particular, we believe, there needs to be a greater willingness to innovate to give these local justice components some real prospect of influencing the behaviour of community members. If this is not to be the case, then governments must take a far more realistic view, for example, of the extent to which local justice elements can contribute to the important task of reducing Indigenous overrepresentation in the criminal justice system.

➡ Action

That the Queensland Government commit to an agreed model for the delivery of a cohesive criminal justice 'system' in Queensland's Indigenous communities, and that this model should include local justice elements such as local laws, local Indigenous police and local courts.

We recognise that even with clear commitment from government to the broad model there is no 'one size fits all' approach possible to implementation of local justice initiatives to meet the needs of Queensland's Indigenous communities. It is our suggestion that, at a local level, planning needs to take place with communities to ensure that an appropriate level of agreement and clarity exists in relation to the operation of local justice elements of the criminal justice system in each Indigenous community.

We suggest that a greater level of discussion and agreement in the local plan between local police and community members on a range of issues could be of benefit. However, we also recognise that care must be taken in this process to ensure that community members understand that the matters to be agreed in a local-level plan do not act as a fetter on the decisions that must be made on a case by case basis by officers responding to offenders – rather, what can be agreed is how 'in principle' or 'wherever possible' the police will approach a particular type of issue.

➡ Action

That specific issues to be addressed within the crime prevention and criminal justice component of the local-level plans should include:

- **the agreed model for the operation of the criminal justice system in each Indigenous community**
- **the extent to which local justice initiatives such as the community justice groups, the local 'law and order' by-laws and the local JP Magistrates Courts will play a role in the delivery of justice services**
- **the role of the community justice group in each community, including its capacity to provide dispute resolution services, advise courts on sentencing, assist in the supervision of offenders in the community and so on, and the circumstances in which it can do so**
- **how offenders should be dealt with — for example, the circumstances in which offenders should be charged with by-law offences and taken before the local courts, and those in which they will be proceeded against for criminal offences before the mainstream courts.**

Local justice initiatives have suffered from the lack of rigorous scrutiny given to assessing their effectiveness to date. The key task before them — to make an effective contribution to reducing crime and violence in their communities — is no easy one. There are ongoing issues with each element of the local justice model that continue to demand attention. Timely evaluations will help to ensure that resources can be allocated to effectively deal with these problems, and will also inform the development of innovative ways to go forward.

It has been argued previously that more needs to be done to support the moral and cultural leadership provided by community justice groups and that the government has taken a far too restrictive approach to developing their roles, powers and authority (see Alcohol and Drugs Working Group 2002). In our view, now is a good time for a rethink about how the roles of local justice components could be developed to improve their ability to deal with the problems being faced in their communities.

Local justice components as a whole need to be revisited to ensure that they are able to bring about more effective social control in various areas of community life. They should be supported to have a role in setting the standards of social behaviour — perhaps a partial role in enforcement, taking action to stop situations of offending and conflict from becoming larger problems, dealing with young offenders, mediating in local disputes and resolving conflicts.

➡ Action

That the rigorous evaluation of local justice initiatives in order to better inform their development should receive greater priority than has been the case in the past. The evaluations should be premised on the notion that local justice components have the potential to make an important contribution to dealing with the crime and violence problems in Queensland's Indigenous communities, but that we may need to be more innovative in our approach if this potential is to be realised.

➡ Action

The Department of Justice and Attorney-General must conduct the much overdue evaluation of the JP Magistrates Courts that has been proposed on numerous occasions. This evaluation of the JP Magistrates Courts must be designed in a way that will allow JP Magistrates Courts to be considered as one possible element in a local justice system. Among other things the evaluation should:

- **compare the operations of the courts in those communities that have local 'law and order' by-laws, and/or local Indigenous police (community police or QATSIP), with the operations of courts in those that do not**
- **assess the extent to which the JP Magistrates Courts can reduce the demands on the circuit courts**
- **consider how the capacity of JP Magistrates Courts might be enhanced to deal creatively and responsively with local problems.**[365]

365 It is possible that the operation of the JP Magistrates Courts can be improved and informed by the experience of the Family Responsibilities Commission in the Welfare Reform Trial communities. In particular, offenders could be provided with a range of programs and services designed to intervene to break the cycle of offending more effectively than is done through fines.

➡ Action

That the Department of Justice and Attorney-General, with the support of the other departments for which the statutory community justice groups perform functions, undertake a review of the various roles and functions of those community justice groups (that is, those in Queensland's Indigenous communities) to determine how they can most effectively contribute to the delivery of crime prevention and criminal justice services in each community. The review should also examine:

- how to deal with conflicts of interest between the various roles and functions of community justice groups
- the extent to which community justice group members should be paid
- the extent to which other agencies can, or should, contribute to funding and capacity building for the groups.

➡ Action

That the Department of Infrastructure and Planning and ATSIS conduct the review of local 'law and order' by-laws in conjunction with, rather than in isolation from, the evaluation of the JP Magistrates Courts. The review should be premised on the notion that local justice components have the potential to make an important contribution to dealing with the crime and violence problems in Queensland's Indigenous communities, but that we may need to be more innovative in our approach if this potential is to be realised.

➡ Action

That the Queensland Government facilitate the development of partnerships, and provide support to them, to encourage innovations making local justice components more effective.

So far, we have focused on the local justice elements of the criminal justice system model in Queensland's Indigenous communities. We have proposed some steps to ensure that resources devoted to them are used most effectively. But these local justice elements were not designed to replace the mainstream criminal justice services; rather, they were designed as adjuncts to the mainstream services.

We turn now to examine the conventional criminal justice services (other than those we discussed in Chapter 16) and how we can improve the use of resources to deliver these services in Queensland's Indigenous communities.

18

RESOURCING A FAIR AND ACCESSIBLE CRIMINAL JUSTICE SYSTEM

We have said that there is a pressing need to increase the focus on effective crime prevention, both inside the criminal justice system and outside it, if we are to seriously address the crime and violence and overrepresentation problems in Queensland's Indigenous communities. However, we recognise that many of the most successful crime prevention programs will be effective in the longer term and that, even if we successfully reduce crime, we cannot expect to eliminate it. For those who proceed through the criminal justice system from Queensland's Indigenous communities, we also must ensure that justice is served — that is, that resources are provided to ensure a fair and accessible criminal justice system.

For a range of reasons, providing a fair and accessible criminal justice system for people in Queensland's Indigenous communities is a complex and difficult task. This chapter examines the issues that relate to this task, which necessarily involves providing conventional criminal justice services in a way that caters for the unique needs and circumstances of these communities.

This has not always been the case on the ground, as the absence of mainstream services has left the local justice initiatives trying to fill a gap. For example, the absence of youth justice services and community corrections officers has meant that community justice groups have often been constrained in their ability to work with the mainstream system. The absence of these services also significantly impedes the operation of other mainstream services — for example, the operation of the courts in sentencing offenders.

The areas we will cover in this discussion are mainly related to the operations of the courts and associated services such as legal representation and interpreters (see Chapter 6 for a description of the services available in these communities).

What are the key challenges in providing conventional criminal justice system services?

The Cape York Justice Study (Fitzgerald 2001) provided a comprehensive review of the operation of the criminal justice system in Cape York communities and recommended improvements to address service delivery gaps by:

- increasing the resources available to the courts to enable more Magistrates Court and District Court circuits to the communities (p. 156)
- enhancing the support for victims of crime (p. 192)
- improving the level of service delivery by legal services (p. 193)
- improving communications, including access to interpreters and communication facilitators
- improving cultural awareness training for courts and staff (p. 190).

The evaluation by Cunneen, Collings and Ralph (2005) of the Queensland Aboriginal and Torres Strait Islander Justice Agreement also proposed a number of strategies aimed at developing a fairer and more accessible justice system, including improvements to legal representation, provision of interpreters and cross-cultural training.

The reviews of justice services conducted more recently in the Torres Strait Islands (Loban 2006) and in Cape York (O'Connor 2008) confirm our own findings that, although significant improvements have been made in a number of areas since the Cape York Justice Study, there are still challenges facing the justice system in the Torres Strait Islands and in the other Indigenous communities. The key areas of concern continue to be:

- increasing demands on the circuit courts to hear matters in a timely way without compromising the quality of justice
- attendant demands on the legal services, including those who provide advice and representation to clients at the circuit courts, and their capacity to provide legal service more broadly, and prosecution services
- lack of availability of interpreters and victim impact statements.

How the delivery of justice is affected by workload pressure on the courts, the problems facing legal services and prosecuting agencies, and the lack of interpreters and victim impact statements was highlighted in 2007 in the controversy surrounding the 'Aurukun nine' rape case. In the accompanying text box we provide some details of this case that illustrate these problems.

The problems highlighted by the 'Aurukun nine' rape case

In 2007 the 'Aurukun nine' rape case received considerable publicity because of the lenient sentences imposed on nine Indigenous males aged between 13 and 25 years who pleaded guilty to the rape of a 10-year-old girl in Aurukun. All three adult offenders were sentenced to six months imprisonment suspended for twelve months and the juveniles were each placed on 12 months probation.

The Court of Appeal concluded that the sentencing process had miscarried and that the judge had failed to impose sentences reflecting the seriousness of the conduct. One of the factors contributing to this was the heavy workload taken on by the judge in Aurukun on 24 October 2007, when she sentenced seven of the nine respondents:

> The transcript records that this sentencing proceeding effectively commenced at 3.40pm and concluded at 5.03pm, a few minutes after the planes which flew in the judge, lawyers and court and departmental officers that day were due to depart. It seems that the judge had dealt with some 18 to 20 other matters that day before commencing this complex matter …
> The sentencing proceedings concerned the serious charge of raping a 10 year old girl by seven offenders, all of whom had significant criminal histories and complex personal circumstances. Because some of the offenders were adults and others juveniles, the sentencing was of some particular complexity involving the consideration of two disparate sentencing statutes involving sometimes competing sentencing principles.
> Her Honour is a very experienced judge, and no stranger to sittings of the District Court in Aurukun. She was, no doubt, conscientiously seeking to dispose of all the matters listed for hearing that day. But even taking into account the judge's perusal of the pre-sentence reports prior to the hearing of this matter, the sentencing process appears to have been conducted with excessive haste and in too summary a fashion to ensure that justice was both done and seen to be done to all interested parties: the victim and her family, the respondents and their families, and the wider community. (*R v. KU & ors; ex parte A-G (Qld)* [2008] QCA 154 at [103])

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A review of the Court of Appeal's judgment and of parts of the transcript of the proceedings reproduced in the report by Davis and Eberhardt (2008) shows that this case exemplifies almost all of the difficulties identified in the delivery of criminal justice services in Queensland's Indigenous communities, including:

- lack of interpreter services for defendants and their supporters for whom English is a second language
- failure to use victim impact statements
- failure to hear submissions from the community justice groups
- high workload of the courts and the limited time available to deal with matters
- limited capacity of prosecutorial services to play their role in the proceedings
- high levels of repeat offending shown in the criminal histories of the offenders
- limited time and resources available to defence lawyers to properly prepare their case and take instructions
- limited supervision applied to community-based orders
- difficulty in recruiting and retaining community correctional staff in these communities
- lack of suitable programs available for juvenile offenders
- constraints imposed on all the service providers by the 'fly-in, fly-out' nature of the service delivery and aviation requirements.

These deficiencies in criminal justice service delivery are not new. The Court of Appeal itself noted that public concern about dealing with serious and complex sentences in such a summary way is longstanding and was identified by the Aboriginal and Torres Strait Islander Women's Task Force on Violence (1999) as an area requiring improvement if violence in Indigenous communities was to be controlled. That report recommended in 1999 that 'court services to rural and remote areas must be increased and improved. Sittings must be more frequent, hearings less expeditious, access to legal help better, presentation of cases improved and client information services upgraded.'

How well are the circuit courts coping with the demand?

In recent years, magistrates from Cairns and other regional centres have increasingly travelled on 'circuit' to remote communities to convene Magistrates Courts. The Queensland Magistrates Court calendar shows that, in 2008, Magistrates Court circuits were conducted to the following Indigenous communities (for the number of days per year in parentheses next to each community):[366]

- Aurukun (34 days)
- Bamaga (12 days)
- Hope Vale (4* days)
- Kowanyama (30 days)
- Lockhart River (12 days)
- Pormpuraaw (12 days)
- Wujal Wujal (3* days)
- Thursday Island (47 days)
- Badu Island (3 days)
- Boigu Island (4 days)

366 Notes:

* Only undefended and simple matters are listed.

† The court calendar at Cherbourg sets aside one day per month for Murri Court and one day per month for Community Court to hear council by-law matters only.

- Darnley Island (4 days)
- Moa Island (3 days)
- Mer Island (4 days)
- Saibai Island (4 days)
- Warraber Island (3 days)
- Yorke Island (3 days)
- Yarrabah (26 days)
- Doomadgee (22 days)
- Mornington Island (23 days)
- Woorabinda (24 days)
- Cherbourg (60† days).

The Cairns magistrates also conducted circuits to Weipa for 32 days per year, Coen for 6 days per year and Cooktown for 36 days per year. Many of the matters heard in these courts are from Queensland's Indigenous communities.[367]

For many communities this will mean judicial officers, attendant staff and legal representatives flying in and out of the community each day of a two- or three-day circuit. For example, the communities on the Western Cape do not have suitable accommodation, so magistrates fly to Weipa, where they are based for the week, and fly in and out of the communities each day.

A typical circuit

Two Cairns magistrates have described a typical circuit in 2006 as follows:

> A typical Cape York circuit would see the two (2) Magistrates leaving Cairns once a month on a Tuesday morning at approximately 6.00am by light aircraft, travelling to a community (Lockhart River) to drop off one of the Magistrates and then continuing on to another community (Aurukun) to drop off the second Magistrate. At the end of the Aurukun list, the pilot then flies the Magistrate from that community back to Lockhart River or vice versa to pick up the first Magistrate and then all fly to Weipa where everyone is accommodated each night of the three (3) night circuit. The Magistrates then fly in and out of the remaining communities for the rest of the week, leaving Weipa at approximately 7.00am and returning each night to Weipa, sometimes as late as 8.00pm. Both Magistrates then return to Cairns on Friday evening.
>
> Court days can be long and exhausting and are usually rushed. Breaks are few and lunch is truncated, if held at all. Apart from defendants appearing in criminal matters, the court also hears Child Protection applications and domestic violence applications as well as being required to dispose of summary and committal hearings. (In relation to the latter, however, we notice that a large number of summary trials become pleas of guilty and solicitors elect not to cross-examine any witnesses in relation to charges set for committal hearing, even when those charges continue to proceed to hearing in the District and/or Supreme Court.)
>
> When endeavouring to complete the list of matters before the court, even with the best of intentions, the sentencing of defendants often feels like a factory. There is inadequate time to test assessments or submissions from the community justice group and/or the departments of Corrective Services and Communities. Many sentences involve serious charges and properly require much more time than we have to give. Consequently, these matters are usually adjourned to Cairns the following week, and where defendants are already in custody, they usually remain in custody until the sentencing occurs. This is less than desirable, in addition to which it offends against the principle that the sentencing of offenders should occur in the community in which the offending occurs. (Previtera & Lock 2006, p. 5)

367 Magistrates Court calendar available on the Queensland Courts website, <www.courts.qld.gov.au/2714.htm>.

The number of days that the court sits in these communities has increased to help the courts to keep up with the amount of work generated by most of these communities. For example, the court list for 2008 provided for 34 scheduled sitting days for Aurukun and 30 days for Kowanyama, in contrast to the 2006–07 financial year, when the court sat for 21 days in Aurukun and 18 days in Kowanyama (Queensland Magistrates Court 2007).

The number of communities to which the magistrates travel has also increased over the years, with the recent inclusion of a number of Torres Strait islands. For example:

- Loban (2006) reported that the court circuits to the Torres Strait were once a month to Thursday Island for 3.5 days and once every three months to Badu Island, and recommended the expansion of the circuits to other islands in the hope that this would reduce the number of non-appearances. In response, an additional Cairns-based magistrate was appointed and the scheduled circuit program was expanded to include Saibai, Yorke and Mer Islands, which commenced in early 2008, to be followed by Kubin (Moa Island), Boigu Island, Iama (Yam Island), Erub (Darnley Island) and Warraber (Sue Island) (JAG 2008, p. 18).
- Circuit courts have also commenced to Hope Vale and Wujal Wujal (Queensland Magistrates Court 2008, p. 3).

Despite the increase in the circuit program in Cape York, O'Connor (2008) identified an ongoing need to address the size of the circuit lists in a number of communities by, among other things, increasing the frequency and/or duration of circuits in some communities. The Chief Magistrate has agreed to keep the circuit court needs of the communities under review (JAG 2009a).

The District Court has also been increasingly conducting circuits to Indigenous communities in recent years, though less frequently than the Magistrates Court. The District Courts will only hear sentence matters (where the defendant pleads guilty). Any contested higher court matters will require the defendant and witnesses to travel to Cairns (for most Cape York and Torres Strait Island communities), Townsville, Mt Isa, Rockhampton or another regional centre for trial. In 2007–08, District Court judges:

- on the Gulf circuit sat in Mornington Island, Doomadgee and Normanton
- on the Cape circuit sat in Weipa/Napranum, Aurukun, Pormpuraaw, Lockhart River and Kowanyama
- also sat in Thursday Island, Bamaga, Yarrabah and Murgon (Queensland District Court 2008).

The District Court also continues to struggle to meet the demand for services in Indigenous communities in its twice-yearly circuits and to meet the communities' expectations that the circuit courts will deliver timely justice to the local communities.

Consultations for this inquiry revealed continuing widespread dissatisfaction and disenchantment with aspects of the fairness and accessibility of the criminal justice system, especially with the lack of justice and related services in the communities and the long delays between when an offence is committed and when the offender is sentenced. The increasing size of the court circuit lists contributes to the communities' dissatisfaction with the justice system as it results in longer delays to the court hearing and increases the disjunction in time between the offence and any sentence. The long lists and lengthy delays[368] put pressure on the courts to move through matters quickly and this can have an adverse effect on the quality of the proceedings.

368 For example, O'Connor (2008, p. 10) states that delays from the time the offence is reported to the matter coming to court can be lengthy — often in the vicinity of six months.

We need to continue to monitor and adequately resource the circuit courts. We have noted in Chapter 16 that youth justice conferencing and more community-based sentencing options must be made available, so a well functioning system must ensure timely court hearings keep up with the 'demand' so that people can access such services in a timely fashion.

The quality of proceedings is also affected by the lack of other services — legal services and interpreters — and by the limited cultural awareness of some of the people providing the services.

Legal services: defence and prosecution

Defence

Concerns over the adequacy and quality of legal representation continue to be raised by stakeholders. Aboriginal and Torres Strait Islander Legal Services (ATSILS) is the main provider of criminal law services in Queensland's Indigenous communities[369] and a number of magistrates expressed concerns to our inquiry about the quality of the legal services provided to Indigenous defendants in remote communities by ATSILS. Magistrates were particularly concerned about the level of experience of certain representatives, especially after the 2005 amalgamation of legal services[370] (see also Previtera & Lock 2006).

O'Connor (2008, p. 27) also noted the challenges facing ATSILS in recruiting and retaining staff to provide services to remote communities, which affect the level of skill and experience of legal personnel working in the area, and reported that ATSILS (SQ) was examining the staffing needs. She stated that lack of staff and funding were impeding the ability of ATSILS to travel to communities to take instructions prior to court circuits, which was essential for the effective operation of the circuit and for maximising the use of court time during the circuits. O'Connor suggested that, if ATSILS could not send staff to the communities before the circuit days, it should use the videoconferencing facilities to take instructions and advise clients.

369 Legal Aid Queensland (LAQ) also provides legal services. ATSILS and LAQ entered into a memorandum of understanding in late 2006 to clarify their working relationship and to minimise duplication or gaps in service delivery. The legal services that LAQ provides to Queensland's Indigenous communities include LAQ's in-house counsel often appearing on behalf of Indigenous offenders who are represented by ATSILS on District Court circuits (submission of LAQ, p. 2). LAQ provides a range of other services, such as outreach services through a pilot program operating in the Northern Peninsula Area, Yarrabah, Thursday Island, Palm Island, Cooktown, Bowen and Ingham, and staff travel to the communities each month to provide legal advice, court support and community education (this program operates beyond the criminal law) (LAQ 2008). LAQ also provides an Indigenous mediation program for family law conferencing in Yarrabah, which we have not discussed here as the focus is on the criminal justice system (submission of LAQ, p. 1).

370 Until July 2005, there were 11 Aboriginal and Torres Strait Islander Legal Services (ATSILS) operating throughout Queensland, providing legal services (mainly criminal law services) to Indigenous communities. These services were funded by the Australian Government and in 2005 it restructured Indigenous legal service delivery, establishing a centralised legal service in each of two regions in Queensland — South Queensland and North Queensland. Most of the services to remote Indigenous communities were provided by the Aboriginal and Torres Strait Islander Community Legal Service (NQ), which won the tender to deliver services for three years, from July 2005 to June 2008. The Brisbane-based Aboriginal and Torres Strait Islander Legal Service (SQ) won the tender to deliver services to South Queensland (Ross 2006). In 2008, ATSILS (SQ) was successful in tendering for the North Queensland region and that organisation now provides the majority of legal services to Indigenous communities. The Torres Strait Northern Peninsula Legal Service (TSNPLS) was the only legal service based in the Torres Strait and was funded by the Torres Strait Regional Authority to provide services in criminal matters only (Loban 2006). At the end of 2007, the contract was awarded to ATSICLS (NQ) to deliver the services from January 2008.

As the primary provider of criminal law services, ATSILS plays a pivotal role in ensuring the effective operation of the criminal justice system in remote communities, especially in ensuring the effective operation of the court circuits and ensuring that justice is delivered not only to offenders but also to victims and to the community. ATSILS is funded by the Australian Government and the competitive tender process introduced in the past few years was designed to improve the quality of service delivery to Indigenous people.

We are hopeful that the concerns expressed by the magistracy during our initial consultations are being addressed by the new service providers. O'Connor (2008) reported that the service provider for Cape York planned to have eight criminal lawyers and eight field officers to service the area. ATSILS reported to us that it continues to struggle to meet demand for its services but is working towards conducting pre-court circuits to the communities and using videoconferencing facilities to assist in this.[371]

The Queensland Government must liaise with the Commonwealth to ensure that the ATSILS funding keeps pace with the demand for services as the circuit courts increase their service delivery to remote communities. There is little point in spending state funds to deliver more circuit courts if the courts and communities are not supported by adequate legal advice and representation. There is a need for continuing dialogue between JAG, ATSILS and other service providers, such as LAQ, to ensure optimal use of resources.

Prosecution

Concerns have also been expressed about the quality of legal service provided by the Office of the Director of Public Prosecutions (ODPP) in the District Court circuits to the community. O'Connor (2008, p. 29) noted the difficulties faced in recruiting and retaining staff in the Cairns office of the ODPP, often resulting in young or inexperienced legal officers or prosecutors finding themselves on circuit or prosecuting matters that involve people from Cape York communities, frequently without sufficient training and lacking awareness of the language and cultural barriers associated with Indigenous witnesses. In the 'Aurukun nine' case, the Court of Appeal noted that the judge was not given any real assistance by either the defence or the prosecution, and made particular reference to the attitude of the prosecutor (*R v. KU & ors; ex parte A-G (Qld)* [2008] QCA 154).

JAG has reported that additional funding was provided in August 2008 to increase staffing levels in the Cairns ODPP office (JAG 2009a). We are yet to see what effect, if any, this will have on the level of service delivery by ODPP to the circuit courts in Indigenous communities. Again, we note that without adequate support from the ODPP — in the form of suitably experienced and culturally aware prosecutors — the District Court circuits will not optimise the delivery of justice to these communities, and we therefore encourage the ODPP to provide such support.

Interpreters

The ability of legal practitioners for the prosecution and defence to assist the courts by presenting the evidence and the various versions of events is made more difficult by the absence of interpreters, especially in communities such as Aurukun and in the Torres Strait Islands, where traditional languages dominate or where many people have English as a second or third language (Loban 2006).

371 Pers. comm., ATSILS CEO, 25 November 2008.

The lack of suitably qualified interpreters has been a problem in these communities for many years and has been raised many times, with recommendations to redress the problem (see Fitzgerald 2001; Cunneen, Collings & Ralph 2005; Loban 2006; O'Connor 2008). For example:

- In 1996, the CJC made numerous recommendations to improve the provision of interpreter services for Aboriginal witnesses in the report *Aboriginal witnesses in Queensland's criminal courts* (CJC 1996b).[372]
- The judiciary has also called for the provision of interpreter services to assist the courts in the circuits to Indigenous communities. For example:
  - The Annual Report of the District Court for 2006–07 described the lack of appropriately trained interpreters as 'a significant and concerning barrier to the proper administration of justice in the remote communities' (Queensland District Court 2007, p. 9; see also Previtera & Lock 2006, p. 12; Queensland Magistrates Court 2008, p. 20).
  - The Court of Appeal has noted that in 2007 there were no Wik Mungkan language interpreters accredited to the appropriate level by the National Accreditation Authority for Translators and Interpreters, despite the fact that Wik Mungkan, the traditional language of the area of Aurukun and Archer River, was the most widely spoken traditional Aboriginal language in Queensland in 1992, with about 1000 speakers. The court noted that the District Court had been raising the matter with the government for six years. Her Honour Justice McMurdo, President of the Court of Appeal, said:

    > The application of the rule of law in Queensland depends not only on the right of an accused person to a fair trial according to law but also on victims of alleged crimes having a genuine opportunity to make a complaint and to give evidence about it. Our community has an obligation to do everything practicable to ensure that even complainants who do not speak English or who have other disabilities have this basic access to the criminal justice system. This obligation is certainly not lessened in respect of Indigenous complainants. (*R v. Watt* [2007] QCA 286 (7 September 2007))

The response to the calls for improved interpreter services has been slow, but JAG has recently begun working with the National Accreditation Authority for Translators and Interpreters to develop a pilot court interpreters training and accreditation project for Wik Mungkan language in Aurukun (JAG 2008, p. 39). We are pleased to see some progress and support the trial as a first step. However, we need to see this as the first part of a process that makes interpreter services available to the other Indigenous communities in which many people do not speak English as a first language, including those in the Torres Strait Islands.

Victim impact statements

As noted above, interpreters are important not just to ensure a fair trial for the accused, but also to ensure that the victim's case is fairly put before the court. Another process designed to ensure that is the presentation of victim impact statements. One of the matters a court is to take into account in sentencing an offender is the impact of the offence on the victim.[373] Courts will usually be informed of this through the preparation and tendering of a victim impact statement.

372 The CJC recommended that consultation occur with the Torres Strait Islander community to determine the extent to which the recommendations should be modified to take account of language and cultural aspects specific to that community. The report also made recommendations that legal services be funded to allow adequate time to take instructions and prepare cases, and that the courts, lawyers and police prosecutors be provided with cross-cultural awareness training.

373 See s. 9(2)(p) of the *Penalties and Sentences Act 1992* and s. 150(1)(g) of the *Juvenile Justice Act 1992*.

Very few of the people in Cape York prepare a victim impact statement. According to O'Connor (2008), the ODPP victim liaison officers send material to victims in remote communities and, if the paperwork is not completed and returned, it is assumed that they do not wish to submit a victim impact statement. This is not a satisfactory process, as there are a range of other reasons the material may not be returned to the ODPP, including that:

- the material was not received by the victim as it was most likely to have been sent care of the post office
- the material was not understood by the victim
- the victim may feel 'shame' for what happened and may not want to talk or write about it
- the victim may have limited or no ability to read the material or write a report
- the victim may have limited ability to recall the events because of the passage of time (O'Connor 2008, p. 30).

As we noted earlier in this chapter, O'Connor recommended that community justice groups be trained to take victim impact statements in a timely way after an offence, and that this task be coordinated through the victim support officer within the ODPP in Cairns. JAG has accepted this recommendation and reports that training in the taking of such statements will be incorporated in the 2008–09 training program. Although we commend the fact that steps are being taken to improve the service delivery to victims, we reiterate our concern that community justice groups are being asked to shoulder a considerable and possibly conflicting responsibility in these communities. It should also be remembered that police in these communities are able to take victim impact statements.

Summary and conclusions: a criminal justice system under strain

In addition to reducing crime by preventing offenders from committing more crime, a vital role of the criminal justice system is delivering a fair and accessible system of justice. Although there is widespread recognition of the desirability of taking justice to the communities, and there have been increasing efforts to do so, there remain considerable problems encountered in delivering criminal justice services to these communities. Although the 'Aurukun nine' case may be an extreme example, it is clear from our consultations and research that many of these problems are widespread and not limited to the District Court circuits or to only one community.[374]

A number of improvements have been, and are being, made to the delivery of justice services in Queensland's Indigenous communities and there has been an increase in resources devoted to the criminal justice system, especially over the past few years. However, there is still considerable progress to be made, especially in the following areas:

- continuing to monitor the demands on the circuit courts to ensure that justice is delivered in a timely manner, and identifying and pursuing strategies to improve the effective use of circuit time (for example, making use of videoconferencing where appropriate to minimise the time taken on circuits)
- ensuring that there is close liaison between the courts, the ODPP, legal services and other services such as interpreters to ensure that all parties have the capacity to participate effectively in the delivery of justice to these communities. That is, there is work to be done to ensure that the elements of the 'system' are operating in a way that ensures that all parties in the system are able to complement the work of other elements. We have demonstrated that at the moment this balance is not present, and that there is a significant mismatch between some elements.

374 Nor are they limited to Queensland's Indigenous communities — criticism has also been levelled at the quality of justice delivered in the 'bush courts' of the Northern Territory and Western Australia (Siegel 2002).

There are areas that could benefit from increased resources, but we are reluctant to argue for an increase in the money spent at the 'back end' of the process — namely the criminal justice system — when the evidence so clearly shows that money spent at the 'front end' or early stages is more effective.

The challenge is to find an appropriate balance for the expenditure of criminal justice resources that provides an effective criminal justice system linked with effective local justice initiatives and counterbalanced by appropriate resources directed toward crime prevention, both within and outside the criminal justice system. The concluding part of this report provides discussion of where we believe the priorities for reform should lie in order to achieve the balance needed to make inroads into the crime and violence problems in Queensland's Indigenous communities.

➡ Action

The Queensland Government must ensure that the future allocations of criminal justice resources are appropriately balanced with resources allocated to prevent crime, both within the criminal justice system and outside of it.

Part 5

Conclusions and recommendations

19

REDUCING CRIME AND VIOLENCE IN QUEENSLAND'S INDIGENOUS COMMUNITIES

Throughout this report we have argued that the task of reducing crime and violence in Queensland's Indigenous communities is central to each of our three terms of reference:

1. **Improving relations between police and Queensland Indigenous communities**
2. **Reducing Indigenous overrepresentation in police custody, and thereby further substantially reducing the risks associated with such custody**
3. **Optimising the use of resources allocated to the criminal justice system.**

In Queensland's Indigenous communities it appears that crime and violence have spiralled upward over the past three decades, and the high rates have remained impervious to the vast amount of government effort aimed at reducing them. In our consultations with communities, we heard the same clear message from community members desperate for support as has been reiterated over a succession of previous reports — 'we just want the violence to stop'.

In seeking to address this, we have identified six principles that we believe are fundamental to any efforts to reduce crime and violence in these communities. Each is associated with a recommendation, and a number of actions that have been suggested throughout the report.

One could say that much of the way forward that we are recommending has been proposed before. However, implementing the principles we propose will require not only sustained effort and commitment but bold action, particularly in terms of governments revisiting their relationship with Indigenous communities. This issue overarches all of the six principles and our recommendations, so we consider it first.

Government is limited: communities themselves must act

Recent years have seen a very significant shift in government policy regarding Queensland's Indigenous communities. In the establishing of the Welfare Reform Trial and the Families Responsibilities Commission in selected Cape York communities, the Queensland Government has demonstrated a willingness to trial innovative approaches and impose strong controls and accountability mechanisms in respect to issues such as alcohol that have well-established links with crime and violence in communities. In terms of dealing with crime and violence in these communities, this radical change in policy must continue.

At the same time it is essential to recognise the limitations of government. Although we have highlighted throughout this report areas in which action is required from the Queensland Government, we have also taken some pains to emphasise the limits to what government itself can achieve.

We have identified areas in which we say police can do better, but we also say that police alone can only go a small way to solving the problems confronting these communities. We have highlighted actions that we believe should be taken by other Queensland Government agencies (notably ATSIS, the Department of Communities, the Department of Justice and Attorney-General, Queensland Corrective Services, other criminal justice agencies, Queensland Health and the Department of Education and Training). However, even in an ideal world of seamless government coordination, where the QPS is well supported by all other services and areas of government, success will continue to depend most heavily on changing the behaviour of individuals, parents and families at the community level. The police and the government are

limited, for example, in what they can do to provide a nurturing and loving home for a child, or to provide Indigenous children with a home life that values and supports school-based education and, later, employment.

The will of individuals, parents and families in Queensland's Indigenous communities to change must also be ignited. This will not happen through more consultations and negotiations conducted by bureaucrats and others from outside the communities, more government announcements of policy frameworks, or more targets being set for reducing Indigenous disadvantage. Rather, there is a huge role to be played by community leaders and Indigenous organisations at the community and regional level (such as local councils, community justice groups, men's groups, women's groups, Elders and — in Cape York — the Cape York Institute for Policy and Leadership, Cape York Partnerships and the Apunipima Cape York Health Council). Individuals, parents and families must be motivated to change aspects of their behaviour, their values and, indeed, aspects of their culture such as the use of violence as an appropriate means of resolving conflict.

Government should see its role as providing vital support and capacity building. It must also provide communities themselves the appropriate 'space' — the powers, responsibilities and accountability mechanisms — to allow them to develop appropriate responses to their situation. Indigenous communities for their part must step up to the challenge so that real change can occur.

Six principles for reducing crime and violence

1. Improve and maintain a focus on crime prevention

Since the time of the Royal Commission into Aboriginal Deaths in Custody there has been a great deal of focus within governments on reducing the overrepresentation of Indigenous people in the criminal justice system, particularly in custody. A long period of criminal justice policy, and Indigenous affairs policy more generally, has failed spectacularly in achieving this fundamental goal.

With the exception of the introduction of alcohol reforms and the Welfare Reform Trial and its Family Responsibilities Commission, there has been little or no sustained effort to reduce the level of crime and violence in these communities through the implementation of an appropriate range of strategies with this focus. Instead, too much faith has been put in the notion that tinkering with the criminal justice system will produce positive results. Such faith must be abandoned.

Similarly, many of the Queensland Government's commitments to developing 'partnerships' and 'whole-of-government' responses to reduce the overrepresentation of Indigenous Queenslanders in the criminal justice system, or to create safer Indigenous communities, have provided little or no detail of the strategies for preventing crime and violence that are expected to fulfil such commitments. Alternatively, the proposed strategies are 'doomed to fail' as they do not target factors that may lead to involvement in crime and violence but instead are focused on improving aspects of the operations of the criminal justice system itself, which are likely to have only a marginal crime prevention effect, if any.

In terms of preventing crime and violence, an improved framework is needed to focus on the following:

- Eliminating confusion between strategies that can reasonably be expected to have a substantial crime prevention effect, and those that are largely directed to providing a fair and accessible justice system for Indigenous Queenslanders. (Where strategies are intended to do both, this should be clearly articulated so the appropriateness and effectiveness of the strategies employed to achieve these goals can be properly assessed.) In particular, a more discerning approach in Queensland's Indigenous communities needs to be taken to the continuing calls for more 'diversion' to solve the problem of Indigenous overrepresentation.

- Ensuring an equitable distribution of resources for crime and violence prevention strategies. This would include a distribution driven to a greater extent by level of risk (which is high in Queensland's Indigenous communities) rather than the sheer volume of offending (which may be high in larger urban and regional centres).[375]
- Ensuring that resources are allocated to a mixture of crime prevention strategies:
  - outside the criminal justice system; these must include strategies focused on early intervention, such as parenting programs, home visiting services and school-based programs, as well as social marketing campaigns
  - within the criminal justice system, to maximise its effectiveness in preventing crime; for example, improving the availability and effectiveness of youth justice conferencing, community-based supervision, treatment and rehabilitation, and support for reintegration of offenders.
- Improving the balance between resourcing the criminal justice system (which is largely at the 'back end' of the continuum) and resourcing a range of crime and violence prevention strategies and programs. For example, the government could agree that any new funding for the 'back end' of the criminal justice system should be balanced by funding for crime prevention initiatives, including those treatment services and support programs within the system that show potential for crime prevention. Similarly, if more circuit courts are needed to respond to demands for Childrens Court hearings because of a high level of juvenile offending, the resources should not be provided without an analysis of:
  - the juvenile justice services available in the community to support diversion, sentencing and supervision and treatment of juveniles
  - the crime prevention programs operating, or needed, outside the criminal justice system in that community to deal with the juvenile crime problem.
- Engaging the community in a problem-oriented and partnership approach to solving the crime problems in their own community.

Recommendation 1

That the Queensland Government's focus on effective crime prevention in Queensland's Indigenous communities should be greatly increased and improved including by:

- **abandoning the overreliance on strategies unlikely to exert a substantial crime prevention effect as the key means through which Indigenous overrepresentation in the criminal justice system is tackled; for example:**
  - **Murri Court processes may have other important outcomes, but they are unlikely to greatly reduce crime or violence**
  - **simply increasing police diversion from the criminal justice system in these communities is also unlikely to have a substantial impact on crime**
- **developing an appropriate mix of crime prevention strategies based on existing evidence about what might work to prevent crime:**
  - **outside of the criminal justice system; these must include strategies focused on early intervention, such as parenting programs, home visiting services and school-based programs, as well as social marketing campaigns**

375 Such a targeted approach is taken, for example, in the Justice Reinvestment Strategy that is being adopted in some states of the United States (see <www.justicereinvestment.org/strategy>). Such an approach has also been recommended here as worthy of consideration in confronting the criminal justice problems faced by Indigenous people (Calma 2009).

– **within the criminal justice system to maximise its potential crime prevention effect; for example, improving the availability and effectiveness of youth justice conferencing, community-based supervision, treatment and rehabilitation, and support for reintegration of offenders. More effort and resources should be directed at those likely to be at the highest 'risk' of offending in these communities — that is, existing repeat offenders — and developing interventions for these offenders that focus on providing supervision, treatment and other support at sufficient levels of intensity that they work to prevent crime.**

2. Make a clear and sustained commitment across government for a criminal justice 'system' that incorporates local justice components

Crime prevention anywhere is to a large extent dependent on community ownership, support and involvement. Because local Indigenous people, families, community councils and other non-government Indigenous organisations must be at the centre of achieving real change, we recommend that, to reduce crime and violence, real local authority must be developed and enhanced in Queensland's Indigenous communities.[376]

Many members of these communities have been said to be characterised by their 'passivity', 'lack of will', 'lack of engagement' or as afflicted by the 'tragedy of tolerance' (Sutton 2009, p. 77; see also Alcohol and Drugs Working Group 2002). Dramatic efforts and innovations must be made to allow local authority to flourish so that problems of crime and violence can be truly tackled at the local level.

Local councils provide one possible source of such local authority, and they have a role to play. However, our inquiry heard that currently many, if not all, local councils were very much against the Alcohol Management Plans and were focused on trying to have them relaxed or removed so that alcohol could be re-introduced. We also saw during our consultations that at least some local councils rejected the evidence available about the scale of alcohol-related violence in their communities. Incentives must be put in place to ensure that local councils are playing a leadership role in their communities to bring about a change in behaviour and a reduction in alcohol-related violence and other harm. Government policy in this area must require local councils to show leadership and take responsibility in this matter.

Other forms of local authority that have real potential to provide leadership for action to reduce crime and violence are the community justice groups, local JP Magistrates Courts, local people in policing roles, and local 'law and order' by-laws. Where they exist, local women's groups, mothers' groups, men's groups or Elders may also play an important role.

While government policy has espoused for some time the need to support local justice elements to play a key role alongside the conventional criminal justice system in these communities, such a model has been only weakly implemented. Individual government departments have wavered in terms of their support for elements of the model for which they are responsible — as appears to be the case in relation to local 'law and order' by-laws — while other departments have tried to expand and develop aspects of such a model for which they are responsible, such as JAG's efforts in relation to JP Magistrates Courts. However, the criminal justice system cannot operate as an effective 'system' in Queensland's Indigenous communities, or elsewhere, without a commitment from individual agencies to work together to achieve the model.

376 The FRC model appears to hold some promise in this regard. Feedback received by this inquiry indicated that local commissioners sitting on the FRC were 'standing taller' in their communities. If the evaluation shows the FRC to be successful, elements of this model could be used to improve other existing models such as the JP Magistrates Courts and community justice groups.

Because real local authority on these issues is a vital ingredient of success, we recommend that the Queensland Government provide a clear and a sustained commitment across all relevant government agencies to a criminal justice 'system' that supports the development of local authority and includes local justice components to deal with crime and violence. The particular configuration of local justice elements appropriate for each community must be determined by the community itself, with the community justice groups to play a key role in this decision-making process (see below).

In addition, the Queensland Government must also be prepared to support such local justice mechanisms to develop their authority — for example, by giving them powers so that they can exert a real influence on crime and violence in their communities. A succession of state governments has lacked either the imagination or the tenacity to allow the potential of local justice initiatives — including community justice groups, JP Magistrates Courts and local 'law and order' by-laws — to be realised. Generally these initiatives have been watered down to an extent where the costs of such initiatives run the risk of outweighing the benefits — certainly this is true in terms of their potential to really reduce crime. For example:

- **Community justice groups.** We have noted that although the possible range of roles and functions of these groups is very broad, they appear increasingly directed to providing a court support role — most frequently providing submissions to the court on sentencing of offenders.

  We have also noted the positive development of providing increased support for community justice groups in terms of some capacity building to conduct mediations and negotiations. This is an area that could possibly yield real returns in crime prevention.

  We have suggested that a re-think about community justice groups should consider implementing previous suggestions that these groups should be:

  – given some real powers and the capacity to influence people's behaviour — for example, through the power to compel attendance at a mediation or dispute resolution, or at a positive parenting or alcohol treatment program
  – allowed to play a key role with local councils in promulgating 'law and order' by-laws so they are setting the standards of behaviour acceptable in their communities.
- **Local 'law and order' by-laws.** We have noted the considerable uncertainty about the future of local 'law and order' by-laws in the communities, and that historically communities have found it difficult to promulgate them as desired. Yet local 'law and order' by-laws have the potential to enhance local authority to deal with problems, including the community's approach to responding to drinking, drinking during pregnancy, truancy, gambling, inadequate parental care of children, noisy parties at night and perhaps exploitation of women and old people for money. We have seen some examples of this potential being realised, such as in Kowanyama, where by-laws in relation to truancy have been enforced as an alternative to the unworkable state laws.

  Nor should the imposition of a fine be the limit of sanctions available for breach of a community 'law and order' by-law — a wider range of incentives and disincentives should be available. The results of the FRC evaluation should be closely examined to see whether options including the ability to make an income management order, and the ability to compel a child's parents or carers to attend a positive parenting program or an alcohol treatment program, could be made available for these breaches.
- **Local JP Magistrates Courts.** These courts could benefit from implementing aspects of the case management approach of the FRC. Again, rather than imposing a fine for a by-law offence (truancy, for example), these courts could negotiate with a parent or carer, or compel that person, to receive positive parenting training.

In summary, local justice components must be given greater scope by government to be innovative and creative, and to use a range of incentives and disincentives to motivate individuals, parents and families in their communities to change their behaviours, values and even, to some extent, their culture. Such a task should not be attempted by government itself. Local justice components need to be afforded real power and authority to do this work.

Recommendation 2

That there be a clear and sustained commitment to supporting and developing effective forms of local authority in Queensland's Indigenous communities to respond to crime, violence and related issues. This must include:

- **clear and sustained support for a model for criminal justice system services that includes local justice components of local people in policing roles, local laws, local courts and community justice groups**
- **allowing the flexibility for communities themselves, with community justice groups to play a key deciding role, to determine what combination of local justice mechanisms will operate in their community**
- **a greater willingness to allow local justice initiatives to develop their roles or have the powers necessary to change the standards of behaviour in their communities — for example, being able to promote changes in individual behaviour through systems of incentives and disincentives.**

Because of the potential benefits, a commitment to making such a model work must be sustained in the face of the challenges that will inevitably arise and the risks that will be attached.

3. Ensure that crime prevention and the criminal justice system response to crime and violence in these communities is guided by strong local-level planning

Past governments have placed insufficient focus on making sure the numerous high-level policy frameworks make a real difference on the ground in communities. If the right nexus is to be developed between individuals, families and leaders in communities on one hand, and governments, policy and funding on the other, local-level planning must play a crucial role. Some real control must be given to communities to influence the shape of the crime and violence reduction strategies that may work for them.

We have suggested that the community be involved in discussing and developing:

- strategies to help improve relations with police (see Chapter 7)
- some policing priorities and strategies[377] (see Chapter 9); for example, police and community members might want to jointly develop strategies regarding truancy, gambling, drinking while pregnant, and noise at night
- the mix of strategies to be used to tackle the crime problem in each community — including crime prevention strategies both inside and outside the criminal justice system (see Chapters 15 and 16)
- the details of the local justice components that are to form a part of the criminal justice system as it is to operate in a particular community (see Chapter 17)
- the commitment of personnel and resources by the community, government and non-government organisations.

We have suggested that such planning ought to be included in a crime prevention and criminal justice component within the Local Implementation Plans (LIPs), which are currently the primary vehicle for place-based planning to occur between communities and the state and federal governments.

377 Of course there will always be policing priorities that cannot be subject to community negotiation.

We do not underestimate the challenges in such a planning exercise. Similar attempts to develop community-specific plans have had a tortured history (see Chapter 2). However, we have concluded that robust and carefully executed local-level planning is an unavoidable and necessary tool if crime and violence are to be reduced in Queensland's Indigenous communities.

Perhaps, until effective local-level planning has been achieved, a moratorium should be placed on developing or announcing any further high-level state-based or national policy frameworks in this area, and attention should instead be directed to the local-level exercises.

How can this local-level planning be effectively conducted?

It is essential that community-specific planning is designed to ensure that communities do not get bogged down in further rounds of negotiation and consultation with government, for which there are likely to be justifiably high levels of community disdain. For example:

- Such planning may need to proceed on the basis of one issue, or a small number, and may need to proceed one community at a time, or in a small number.
- A local-level plan may never be able to be reflected in a perfect single, complete document — it may need to be developed as a series of parts.
- The aim should not be to reach whole-of-community agreement on how crime and violence issues should be handled (which will be impossible to achieve); community justice groups should have the authority to give final approval for implementation of strategies identified in the plan, provided that a certain level of community consultation has been carried out.[378]

In addition, before beginning the local-level planning exercise, governments need to have developed clear positions about what is negotiable:

- for example, what, how and by whom crime prevention strategies are to be implemented

and what is not:

- no relaxation of alcohol restrictions until there is clear evidence of a reduction in alcohol-related harm.

At the core of crime prevention strategies discussed in such a local-level planning exercise must be improving the lives of children. All plans must include:

- strategies for increasing positive parenting
- strategies to reduce truancy and promote the value of education.

We do not believe that a real dialogue or decision-making process between community members can be effectively led by someone from government on a 'fly-in, fly-out' basis (unless such people had pre-existing well-established relationships in the community). When there is a rapid transition of bureaucrats, developing the relationships needed for a meaningful exchange is an insurmountable obstacle.

Large meetings are often not an effective way to engage with Indigenous communities, at least until much of the groundwork has been done. For them to be an effective communication and decision-making tool, someone with established relationships and good knowledge of the workings of the community will usually have spent time on the ground with individuals or small family groups and done a significant amount of preparation — to give people background information, exchange information and develop a picture of what may be the consensus on an issue — before any large meeting is conducted.

378 As in native title 'authorisation' processes, such approval may have to be subject to certain requirements to ensure that the proposals have at least been discussed broadly within the community and that people's views have been heard and taken into account.

It is our strong view that the local-level discussions necessary for developing strategies for local implementation should be led by people living locally, or by people who have had long-term experience with the community involved. Planning does not have to be led by government employees and it may often be better if it is not. In Cape York communities, planning could be led by the CYIPL, Cape York Partnerships or Apunipima, who have previously conducted similar exercises effectively. Employing those with a long history of association with particular communities and a great deal of expertise in conducting consultations relevant to developing native title agreements — for example, anthropologists such as David Martin and Peter Sutton in Aurukun — should also be considered as the cost–benefit relationship is likely to vastly favour their involvement. [379]

We also believe that local police could play a significant role in discussion and capacity building for local-level planning related to issues of crime, justice, policing strategies and crime prevention. Local police could be conducting consultations relevant to the development of local-level plans with individuals and families as they go about their work. This partnership approach is consistent with the problem-oriented and partnership policing philosophy that we have suggested must be central to QPS operational policing in Queensland's Indigenous communities.

Another important aspect of such a planning exercise is to build community capacity in relation to crime prevention and other criminal justice matters. Although the members of the local community have a considerable role to play, they cannot be expected to understand all their problems and instinctively know the answers. So, despite our recognition of the importance of community ownership and involvement, it would be unreasonable to expect them to fight their way out of the problems without outside help (Sutton & Hazlehurst 1996, p. 435). A helpful process could involve some initial conversations, then capacity-building workshops, then further consultations.

Capacity-building exercises should involve, wherever possible, the 'heavyweights' in the area, be it parenting programs, a nurse home visiting program or social marketing. Again, such is the seriousness of the problems being confronted and so great are the existing costs to government that, if successful, the costs of bringing in such people would be easily recouped. Some capacity building may be provided by government where it is appropriate (for example, if information needs to be presented to a community about the patterns of crime and violence), but generally it should be delivered by those with real expertise in the subject.

ATSIS should play a coordinating role. It is ATSIS that must ensure accountability of the planning process and then facilitate across government (and outside government) the development and implementation of support for the strategies identified. ATSIS must then continue to play a role in ensuring accountability to the plan. The local-level planning must influence the allocation of resources, and funding should flow to develop and implement the strategies identified in the plan. Funding may also be needed to evaluate the success of strategies (see further discussion in Principle 5).

Without effective local-level planning — and accountability imposed at that level — it is likely that the situation we have seen in the past will recur, where too much focus and energy across government is directed at high-level policy frameworks, with little effort directed to ensuring that effective strategies and actions are developed on the ground.

379 These people could be funded through pooled resources from all the agencies, or with money that is held by various departments against positions that are unfilled from time to time.

Recommendation 3

That local-level planning and the development of strategies to be implemented at the local level to reduce crime and violence should be a priority placed ahead of any further high-level or overarching policy frameworks. This could be a crime prevention and criminal justice (including policing) component of the current Local Implementation Plans (LIPs).

- **Local-level planning should not be led by bureaucrats on a fly-in fly-out basis conducting a series of planning meetings — people living locally or with strong local associations and with skills in conducting robust community consultations should be employed to develop particular aspects of the plan. Local police should assist.**
- **Local planning processes must build community capacity to understand the range of potential solutions to reducing crime and violence based on the evidence about what works and which we have outlined in this report.**
- **Real control must be ceded to communities to develop, adapt or invent strategies to meet local needs and circumstances.**
- **Government must be responsive to this planning in terms of allocating funds. Local-level plans must be ongoing and the focus on them must be sustained over time; they should provide an accountability mechanism.**

4. Support local police to play a key supporting role

We have taken some pains to emphasise that police cannot be expected to solve many of the problems confronting Queensland's Indigenous communities on their own, although they do have a key role to play. Police have been in the difficult position of working in communities experiencing a rapid breakdown in social order and a vacuum of authority since the end of the mission period. In addition, they have received some mixed messages about policing in these communities, particularly in relation to public order policing. We have shown that public order offending often involves violence or threats of violence and it is simplistic to characterise the high levels of public order offences in these communities as being a result of 'overpolicing' of minor and trivial matters.

The police have demonstrated their capacity to reform and change since the time of the Royal Commission into Aboriginal Deaths in Custody. Although they are certainly not all above reproach, the general picture to emerge from our inquiry is that police have made substantial changes in many important areas. It is time now to integrate the available evidence and experience in relation to policing and to develop a range of other strategies, rather than continuing to simplistically insist, for example, that increasing diversion will substantially reduce Indigenous overrepresentation in the criminal justice system and in incarceration.

Much is happening across government in relation to the issues being confronted in Queensland's Indigenous communities, and we believe that the police can play a greater role in integrating their work with, and enhancing whole-of-government effort. Police must be key players in crime and violence prevention efforts because they:

- are 'on the ground' and provide a key government presence in most of Queensland's Indigenous communities
- sit at the juncture between early intervention and the criminal justice system, acting as the first gatekeepers to the criminal justice system
- deal with the crime problems at a day-to-day level and therefore have a lot at stake when it comes to reducing the crime problems in these locations
- already have within their 'toolkit' the formal POPP framework, so they are already versed in the problem-solving approach and partnerships philosophy that is necessary.

Recommendation 4

That the QPS create a new structure, an Indigenous Partnership Policing Command (IPPC) to be led by a person at the rank of Assistant Commissioner, to support the implementation of improvements in the policing of Indigenous communities.

The role of the IPPC will be to address both issues internal to the QPS (such as recruitment, training and other support) and those that are external (relating to the need for a whole-of-government approach to improve outcomes in Queensland's Indigenous communities). In particular, the IPPC must:

- **send a clear and consistent message to Indigenous communities and its officers that the QPS takes the priority of improving relations with Queensland's Indigenous communities to be of utmost importance**
- **support local police and community members (particularly members of the community justice groups) in identifying strategies in the local-level plan including:**
  - **strategies to improve relations**
  - **local crime priorities and strategies to respond**
- **ensure that, in addition to law enforcement, problem-solving and partnership approaches are a central driving philosophy of all policing in these communities**
- **implement strategies to support the development of special knowledge and skills for those involved in policing Indigenous communities, including through strategies such as:**
  - **developing mentoring programs for those working in these communities so that officers can have direct access to the knowledge and experience of some of the 'legends' or well-respected police officers with experience working in Queensland's Indigenous communities**
  - **convening regular workshops or conferences for officers working in Indigenous communities**
- **develop and implement a model, which improves on the QATSIP model, for local people in Queensland's Indigenous communities to play an active role in law enforcement and other policing activities in their own communities.**

5. Conduct rigorous and timely evaluations of key initiatives and appropriate monitoring and reporting

As is stated by Weatherburn (2004), what is needed is a criminal justice system and crime prevention policies that are not driven by emotion and supposition, but are a rational and systematic response based on what might work to prevent crime. Increasingly it is recognised that we need 'evidence-based' criminal justice and crime prevention policy built on evaluative research on the effectiveness or possible effectiveness of respective programs or strategies. To this end, carefully selected and targeted independent evaluations, conducted in a rigorous and timely way, can provide vital information to government and communities.

There is universal agreement that the quality of evaluation evidence of crime prevention programs in Australia generally must be improved (see Cunneen 2001a, p. 19, 2001b, p. 1; Farrington & Welsh 2007, p. 154; National Crime Prevention 1999; Memmott et al. 2001, p. 77; Weatherburn 2004, pp. 37 & 42–3). For example, Memmott et al.'s (2001) identification of violence prevention programs in Indigenous communities notes that only six of 53 programs they document which had operated in Aboriginal communities received any 'reasonable evaluation in documented form' (p. 77). Many of the Australian evaluations of crime prevention programs and strategies do not seek to determine the impact on crime or the rate and frequency of re-offending.[380]

However, we also acknowledge that the role of rigorous independent evaluations has its limits. For example:

- It may stifle innovation. Over-reliance on the evidence of 'what works' may prevent the flexibility required to identify and solve crime prevention problems (Cherney & Sutton 2007).
- Evaluations themselves can be extremely costly, particularly if they are long term and methodologically rigorous. For example, there is a cost–benefit relationship in terms of whether the time, effort and money spent on evaluation could have been better spent on the initiative itself (Sarre 2000, p. 321).

Currently Queensland has no standing facility for evaluating the effects of government programs and policies on rates of re-offending.[381] Nor does Queensland have a crime prevention unit equipped with the resources and authority to influence the development of policy and programs as is needed, or to broker agreements with the private sector on matters affecting crime.[382] Queensland's Indigenous communities are likely to have suffered as a result.

Greater efforts to evaluate the effectiveness of programs and strategies in Queensland's Indigenous communities are warranted by the following facts:

- the crime problem in these communities is substantial and continuing (see Chapters 4 and 5)
- a large amount of government effort and resources has been, and is being, devoted to trying to improve Indigenous disadvantage, including a considerable focus in the area of criminal justice since the time of the Royal Commission (Chapter 2)
- much of the research available on which we could begin to form an evidence-based approach is overseas research and the conclusions are untested in Queensland's Indigenous communities (see Chapters 15 and 16).

It is important, therefore, that strategic decisions are made about where to invest in rigorous independent evaluations. If, for example, a decision was made to implement home visiting services to support mothers and families from birth through the earliest stages of a child's life in all Queensland's Indigenous communities, it would be very important to conduct an evaluation of such a key initiative with substantial crime prevention potential. If similar programs were to be implemented in Cape York, departing from those nurse-based home visiting programs that have been shown through research to be effective (for example, by instead using appropriately trained Aboriginal health workers), the importance of rigorous evaluation is further increased. In the longer term it can only be assumed that strong evaluations will lead to improved outcomes and cost savings.

380 That is, many Australian crime prevention evaluations are process evaluations only.

381 It should also be noted that public access to crime and criminal justice data is poor in Queensland in comparison with NSW, for example, where there is free electronic access for the public to a range of information on police recorded crime at the level of local government areas (Weatherburn 2004, pp. 39 & 41). Such open access arguably encourages improved community capacity, university research and greater innovation.

382 Crime Prevention within the QPS is not resourced to perform such a role.

Governments have an important role to play in supporting the continuing development of our knowledge about 'what works' in terms of strategies that effectively reduce crime and violence and other dysfunction in Indigenous communities. The Queensland Government has two key roles in this respect:

- continuing to develop the understanding of the dimensions of crime and violence problems at the individual community level, a task that government has begun with the provision of Quarterly Reports[383]
- ensuring that funding for research and evaluation in this area supports research and evaluation that relates directly to the question of 'what works' to reduce crime and violence.

Recommendation 5

That the Queensland Government refocus its approach to criminal justice policy to build a more rational evidence-based response to crime. (The failure to make inroads in reducing Indigenous overrepresentation is due to the failure of governments to have such an approach). In particular, the Queensland Government must enhance its capacity to learn from rigorous evaluations of the effects of government programs and policies on rates of re-offending and must ensure that it supports research that relates directly to the question of 'what works' to reduce crime and violence.

6. Be prepared to innovate

Innovation must be encouraged — the staggering size of past failures in this area calls for bold thinking. To continue to do 'more of the same' will only see the situation deteriorate further. It is not a time for timidity or for the status quo to prevail. Although innovation will carry with it risks and controversy, it may not make the situation worse (which will surely happen if we continue with the old approaches), and it may lead to some positive results. It is important that significant innovations are properly evaluated.

Practical examples: alcohol restrictions and the Welfare Reform Trial

The imposition of alcohol restrictions and the Cape York Welfare Reform Trial are very significant innovations that seek to tackle the underlying causes of crime. While these innovations are controversial and impinge on the rights of people living in Queensland's Indigenous communities, such an imposition can be justified if we accept that the utmost priority must be placed on improving the conditions and care provided to children born in these communities and other victims of crime. The situation must not be allowed to deteriorate further.

Given the overwhelming evidence regarding the devastating role played by alcohol in crime and violence in these communities, communities and councils must take responsibility for reducing alcohol-related harms within their communities. In the meantime, police must continue to do the important and unpopular task of enforcing alcohol restrictions, including preventing the supply of sly grog and home brew. The Queensland Government must continue to confront the community leadership in these communities — particularly local councils — with the reality that, unless they can embrace responsibility in this area and show improvements in terms of a reduction of alcohol-related harms, restrictions on the supply of alcohol will not be relaxed.

383 It should be noted that, though we applaud the publication of the Quarterly Reports, in terms of crime and violence no conclusions should be drawn from fluctuations shown in the data on a quarterly basis. As we have shown in Chapter 4, violent offences in these communities do show substantial fluctuations over time. It may be worth the Queensland Government considered providing less frequent but more comprehensive reports (for example, it may be useful to consider including information on the number of juveniles and adults incarcerated from these communities).

Just as it cannot be the only strategy relied on, restricting the supply of alcohol in these communities cannot be a permanent or long-term solution. Government policies should encourage councils to take responsibility in this area and build community support for different behaviours. For example, government could do this by developing policy that gives incentives to local councils, and that provides for the graduated re-introduction of alcohol, depending on improved results being achieved and maintained.[384]

The evaluation of the Welfare Reform Trial and the Family Responsibilities Commission will add to the evidence about effective approaches for dealing with crime, violence and other dysfunction in these communities. Although the Queensland Government has indicated that funds will not be provided to expand the Welfare Reform model into other communities, pre-existing structures such as the JP Magistrates Court and community justice groups may be able to be adapted in order to improve their operations by incorporating elements of the Family Responsibilities Commission model, if they are shown to be effective.

Further innovations of the kind already developed by the Cape York Institute for Policy and Leadership, for example, are to be encouraged and appropriately evaluated. Given the track record of the CYIPL so far, we suggest that there would be great value in bringing together the CYIPL, others with intimate knowledge of Queensland's Indigenous communities, and those with expertise relevant to the task of crime and violence prevention. For example, such expertise may include:

- Professor Don Weatherburn, Director of the NSW Bureau of Crime Statistics and Research
- Professor Ross Homel, Foundation Professor of Criminology and Criminal Justice at Griffith University, and Director of that university's Strategic Research Program in the Social and Behavioural Sciences
- Professor Matt Sanders, Director, and Dr Karen Turner, Deputy Director, Parenting and Family Support Centre, University of Queensland
- Associate Professor Peter Sutton, Senior Research Fellow at the University of Adelaide (Earth and Environmental Sciences) and the South Australian Museum
- Dr David Martin, Visiting Fellow, Centre for Aboriginal Economic Policy Research, Australian National University.[385]

Governments should support such a network to develop innovative responses to crime and violence issues confronting Queensland's Indigenous communities and then to work with governments to trial such innovations.

Recommendation 6

Governments should encourage substantial innovations to respond to the particular circumstances of Queensland's Indigenous communities that may have a crime prevention effect; to continue to do 'more of the same' when what we have been doing has not been working, is not an option. Further innovations of the kind already developed by the Cape York Institute of Policy and Leadership are to be encouraged and appropriately evaluated.

384 Such a scheme has been proposed to the Queensland Government by Noel Pearson and the CYIPL (pers. comm., September 2009).

385 This list is indicative only (we have referred to key people whose work we have relied on in this report). There are many other individuals who could also be included. Specific consideration should be given to involving other Indigenous people such as Professor Marcia Langton, Chair of Indigenous Studies, University of Melbourne.

A final word from the communities

In closing we would like to highlight the comment made to us during the course of the inquiry by an Elder at Aurukun. She stated in the context of relations with police that:

> 'In the past, things were [too often] bad with police. We want to go forward, we don't want to go back.'

This comment embodies the spirit in which we hope the Queensland Government and the QPS will receive this report — one of working together and improving on past approaches. Now is the time to make changes that will make a difference in Queensland's Indigenous communities.

APPENDIX 1:
List of written submissions

Written submissions were provided to the inquiry in 2007 and we were provided with permission to publish the following ones on the CMC website:

April 16: Doug Brownlow

April 23: PF Lafsky

May 15: Kevin McNulty

May 17: Barbara Ashby

May 18: EM Grant

May 21: Napranum Aboriginal Shire Council

May 23: Russell Steele

May 24: Department of Local Government, Planning, Sport and Recreation

May 28: Torres Strait Regional Authority

May 30: Environmental Protection Agency

May 31: Levitt Robinson Solicitors

June 1: Anonymous

June 1: Gwenda Prickett

June 4: Auditor-General of Queensland

June 4: Sisters Inside

June 5: Lilian Ough

June 7: Queensland Corrective Services

June 8: Australian Institute of Criminology

June 11: James Cook University Law School, Townsville

June 14: Department of Emergency Services

June 15: George Villaflor

June 15: Queensland Law Society

June 26: Mer Island Justice Committee

June 26: Torres Strait Island Community Police

July 6: Queensland Health

July 10: Aboriginal and Torres Strait Islander Legal Service (Qld South)

July 13: Department of Primary Industries and Fisheries

July 24: Department of Child Safety

July 31: Caxton Legal Centre

August 6: Robyn Lucienne

August 9: Legal Aid Queensland

August 24: Queensland Police Service

September 20: Department of Communities

October 16: Cape York Institute for Policy and Leadership

APPENDIX 2:
Chronology of reports and policy developments

Two decades of key reports and policy developments relevant to policing and criminal justice matters in Indigenous communities are listed below in date order.

Although our focus is on understanding the necessary background to the policing of Indigenous communities in Queensland, as we have noted in Chapter 1, policing issues cannot be divorced from other crime and justice issues in Indigenous communities, and in turn these necessarily overlap with issues in a wide range of other areas, including education, employment, health and governance. We have therefore referred to major influences and developments relevant to Indigenous affairs more broadly than those focused on policing or crime alone. We have also referred to those events most relevant at the federal level in addition to the state level, as this helps to show the complexity of the picture for Queensland's Indigenous communities.

April 1986 The **Australian Law Reform Commission** (ALRC 1986a, 1986b) reviews the possibility of recognising Aboriginal customary laws in Australia. In doing so, the ALRC examines the current state of policing in Aboriginal communities and identifies a number of factors that contribute to problems in police–Aboriginal relations. These include the array of public order offences police are required to enforce, the important influence of alcohol on Aboriginal contact with police, socio-economic disadvantage among Aboriginal people, the lack of specialised training given to police officers stationed in Aboriginal communities, and 'unsympathetic attitudes towards police' (ALRC 1986b, p. 97). The ALRC makes several recommendations to deal with these problems and improve police–Aboriginal relations, most notably:

- better and more regular communication between police and Aboriginal community leaders about police activities within the community
- where applicable, greater emphasis on self-policing by Aboriginal communities to supplement standard policing activities
- careful consideration of the applicability and implementation of police aide schemes; this includes viewing police aide schemes as temporary strategies only, introducing such schemes only when there is clear community support for them, providing police aides with sufficient powers to prevent them from being seen as 'second-class' police, and facilitating the transition of police aides to sworn officers
- enhancing police and community education to ensure that police have a better understanding of Aboriginal society (culture, language, etc.) and that Aboriginal people have a better understanding of the police role.

Other suggestions include shifting the police focus from detecting offences to preventing crime, and decriminalising certain minor offences such as public drunkenness to reduce Aboriginal contact with police (ALRC 1986a, 1986b).

July 1989 The **Fitzgerald Inquiry** into suspected police misconduct in Queensland recommends that the focus of policing should shift from traditional reactive policing activities to using more proactive strategies, developing strong partnerships with the community, and involving citizens in crime prevention. The need for tailored, community-based crime prevention programs is emphasised. It is noted that, to ensure the acceptance of and cooperation with community policing in Aboriginal communities, staff with special cultural and language skills will need to be recruited (see Fitzgerald 1989).

Mar. 1990 The Australian Government–established **Aboriginal and Torres Strait Islander Commission (ATSIC)** commences operation. This elected Indigenous representative body is to ensure Indigenous participation in policy development and implementation, promote self-management, and help to coordinate policies at the federal, state and local level. ATSIC's Law and Justice program provides funding for prevention, diversion and rehabilitation programs to reduce Indigenous people's disproportionate contact with the justice system. There is little reporting of outcomes against measurable performance indicators for this program.

1991 The **Royal Commission into Aboriginal Deaths in Custody (the Royal Commission)**, which began in 1987, concludes that the high number of Aboriginal deaths in custody is due to the overrepresentation of Indigenous people in custody (Johnston 1991). The Royal Commission's recommendations include a substantial focus on reforming the operation of the criminal justice system, such as:

- police using arrest only as a last resort and increasing the diversion of Indigenous people from the justice system
- addressing health and safety problems for Indigenous people in custody and setting clear standards of care for police and corrections.

The Royal Commission also emphasises the importance of community policing[386] for Indigenous communities, the development of community-based justice initiatives and the importance of community input into the criminal justice process (including, for example, through community justice groups).

Despite voluminous reporting on the 'implementation' of the Royal Commission's recommendations, over 18 years later the evidence shows that its most fundamental aim is yet to be achieved — the reduction of the overrepresentation of Indigenous people in custody.

Dec. 1992 The **Aboriginal and Torres Strait Islander Overview Committee** is established by the Queensland Government. Representatives from Queensland's Indigenous communities are appointed by the government to provide a consultation mechanism between the Queensland Government and Indigenous communities regarding the implementation of the Royal Commission recommendations (see Ramsay 1994). A secretariat is provided in the Department of Families, Youth and Community Care.

May 1993 The Queensland **Aboriginal Justice Advisory Committee (AJAC)** is established in response to the recommendations of the Royal Commission. This committee is to provide advice to the Minister for Justice and Attorney-General on Indigenous criminal justice issues and its secretariat is provided by the Department of Justice and Attorney-General (Queensland Government 1997a; Ramsay 1994).

1993 **Community justice groups (CJGs)** are established in Queensland's Indigenous communities from this time in response to the recommendations of the Royal Commission. Support for the program is provided at this time through the Office of Aboriginal and Torres Strait Islander Affairs in the Department of Families, Youth and Community Care. CJGs may provide support to Indigenous victims and offenders at all stages of the legal process, encourage diversionary processes, make submissions to the courts about sentencing or bail decisions, provide mediation of disputes and perform community corrections functions (see Office of Aboriginal and Torres Strait Islander Affairs 1996).

386 Community policing is a policing strategy and philosophy based on the notion that community interaction and support can help control crime and reduce fear of crime (see Chapter 9 for further information).

1994 The Queensland Government initiates the **Local Justice Initiatives Program** (LJIP) in response to the recommendations of the Royal Commission. The program, administered by the Office of Aboriginal and Torres Strait Islander Affairs, provides funding to help Indigenous communities and Indigenous organisations to develop community-based strategies to deal with law and order problems and reduce Indigenous people's contact with the criminal justice system. Projects are funded on the basis of project proposals included in grant applications made to the department (see Office of Aboriginal and Torres Strait Islander Affairs 1996).

1995 The Standing Committee of Attorney-Generals (SCAG) decides to establish the **National Aboriginal Justice Advisory Council**, consisting of the chairperson of each state and territory Aboriginal Justice Advisory Committee, with secretariat support provided by the Commonwealth Attorney-General's Department.[387]

Aug. 1996 The **Bingham Review** of the Queensland Police Service makes 30 recommendations relating to policing in Indigenous and ethnic communities. The review draws attention to the fact that Indigenous people are still grossly overrepresented in the Queensland criminal justice system. In identifying possible reasons for this, the review highlights the influence of often confrontational and hostile interactions between police and Indigenous people, and raises concerns about the regular use of arrest against Indigenous people, often for comparatively minor offences such as public drunkenness. It recommends that a specific goal to reduce Indigenous overrepresentation be included in the QPS's strategic directions for policing Aboriginal and Torres Strait Islander people, and that strategies such as alternatives to arrest be used to achieve this. It also recommends that the government reconsider its decision not to decriminalise public drunkenness in line with the recommendations of the Royal Commission into Aboriginal Deaths in Custody, and that policies for the management of alcohol-affected people be devised in all police regions, with a focus on diversion rather than arrest whenever possible.

The review also emphasises that Indigenous communities need to have greater involvement in policing, and encourages the continued development of community policing strategies, particularly beat policing (see Bingham 1996).

Apr. 1997 The ***Bringing them home*** report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families is released (Human Rights and Equal Opportunity Commission (HREOC) 1997). The report emphasises that past laws, practices and policies that led to the forcible removal of Indigenous children from their families have had wide-reaching intergenerational effects. In particular, it notes that:

- the unresolved grief and trauma of those removed as children have been passed on to their own children
- removed children, having not had their own experience of being parented or cared for by a close attachment figure, generally have deficient parenting skills and experience uncertainty and anxiety about raising their own children
- a substantial number of people removed as children have children of their own with serious behavioural problems
- the very high rates of domestic violence among young men in many Aboriginal communities may be traced to the absence of appropriate male role models caused by past removals.

387 Queensland had previously established its AJAC pursuant to the recommendations of the Royal Commission into Aboriginal Deaths in Custody (see above).

The report stresses that to deal with these problems it is essential to use a holistic approach that first addresses the emotional distress felt by those affected by the removals. It argues that services need to be delivered based on 'Indigenous wellbeing models' — recognising that Indigenous wellbeing is not just physical, but also refers to the 'social, emotional and cultural wellbeing of the whole community' (Swan & Raphael, cited in HREOC 1997, p. 392).

The report also makes reference to the current experience of Indigenous juveniles in relation to the justice system, arguing that the juvenile justice system provides the 'lynchpin' for the criminalisation of Indigenous children and youths (p. 540). It especially notes problems with overpolicing in many communities and the apparent preference for arresting and charging Aboriginal youths rather than issuing cautions or using other diversionary tactics. Nevertheless, the report highlights the importance of addressing the underlying problems of socio-economic disadvantage and dispossession that contribute significantly to Indigenous juveniles' offending and contact with the justice system.

July 1997 **Ministerial Summit on Indigenous Deaths in Custody** held in Canberra. Commonwealth, state and territory ministers with responsibility for justice, policing, correctional services and Indigenous affairs, together with representatives of Indigenous communities, meet to examine issues relating to the implementation of recommendations from the Royal Commission into Aboriginal Deaths in Custody. To address the overrepresentation of Indigenous peoples in the criminal justice system, ministers agreed, in partnership with Indigenous people, to develop strategic plans for the coordination of Commonwealth, state and territory funding and service delivery for Indigenous programs and services, including working towards the development of multilateral agreements between Commonwealth, state and territory governments and Indigenous people and organisations to further develop and deliver programs. It is agreed that the focus for these plans will be to address:

- underlying social, economic and cultural issues
- justice issues
- customary law
- law reform
- funding levels

and that they will include

- jurisdictional targets for reducing the rate of overrepresentation of Indigenous people in the criminal justice system
- planning mechanisms
- methods of service delivery
- monitoring and evaluation (see *Indigenous Law Bulletin* 1997).

1997 The Queensland Government establishes the **Indigenous Advisory Council** to replace the Aboriginal and Torres Strait Islander Overview Committee and the Aboriginal Justice Advisory Committee. The council is to provide advice to the Queensland Government on the full range of issues affecting Indigenous people (Queensland Government 1998).

Aug. 1998 The Queensland Government launches a **Task Force on Crime Prevention** with secretariat support being provided by **Crime Prevention Queensland**, a unit within the Department of the Premier and Cabinet.

Dec. 1999 The Queensland Government releases the **Queensland Crime Prevention Strategy — Building Safer Communities**.

The strategy was developed after the government's 1998 election promise to be 'Tough on Crime and Tough on the Causes of Crime'. It is said to result from extensive community consultation and identification of best-practice initiatives from around the world. The strategy describes a whole-of-government approach to crime prevention. It attracts $80 million for its first three years, which funds 44 new 'innovative or enhanced' programs operating out of 13 government departments across Queensland. The strategy acknowledges that crime prevention needs a new approach and range of responses rather than simply relying on the criminal justice system to deal with crime. The strategy consists of a range of short- and long-term initiatives using a combination of crime prevention approaches. The programs fall into one of four categories: developmental approaches, community approaches, situational approaches and criminal justice approaches. Of the 44 programs funded under the strategy, 8 are criminal justice based, 7 situational, 6 developmental and 23 community based (Friedman 2001).

A key initiative of the strategy is **Building Safer Communities — A Strategic Framework for Community Crime Prevention**.

Under the Crime Prevention Strategy there are said to be a number of programs designed to reduce crime in Indigenous communities, including: the **Diversion from Custody program** conducted by DATSIP, which seeks to reduce the number of Indigenous people detained for offences relating to drunkenness;[388] the **Specialist Drug and Alcohol Workers for Indigenous Communities program**, run by the Department of Tourism and Racing; the **Indigenous Parenting Support Program**, run by Queensland Health; and the **QATSIP pilot program**, which is evaluating the concept of transferring responsibility for community police from community councils to the QPS (Friedman 2001).

1999 Noel Pearson publishes ***Our right to take responsibility***, outlining his ideas on welfare reform and economic development. Pearson suggests that Indigenous society is 'dysfunctional' and states that there is a clear link between this dysfunction and alcohol consumption. The book argues that passive welfare has had a devastating effect on Indigenous families and communities, and promotes models based on reciprocity as a way forward (Pearson 1999).

1999 The **Department of Aboriginal and Torres Strait Islander Policy and Development (DATSIPD)** replaces the former Office of Aboriginal and Torres Strait Islander Affairs in the Department of Families, Youth and Community Care. The department is to coordinate government programs and service delivery for Indigenous Queenslanders.

May 1999 The Queensland Government appoints the **Aboriginal and Torres Strait Islander Advisory Board** to replace the Indigenous Advisory Council. A secretariat is provided by DATSIPD/DATSIP. The board is to provide advice to the Queensland Government on Indigenous matters, including the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody (DATSIP 2001).

388 The **Diversion from Custody program** was established to fund diversionary centres to provide non-custodial facilities for Indigenous people.

1999 The **Interim Assessment of Community Justice Groups: Local Justice Initiatives Program** (DATSIPD 1999) finds that community justice groups are developing innovative and successful strategies for tackling community justice issues by working both within the formal justice system and outside the justice system at the 'grassroots' level to address the underlying causes of crime, and makes recommendations on how the potential of the model can be realised. The report recommends that a comprehensive evaluation of the Local Justice Initiatives Program be conducted by an independent reviewer in late 1999 (three years after commencement of the program).[389]

Dec. 1999 The ***Aboriginal and Torres Strait Islander Women's Task Force on Violence report*** refers to the level of violence in Indigenous communities in Queensland as a 'national disgrace' and notes that violent crime is worst in rural and remote communities. It agrees that many of the communities can be described as dysfunctional.

The report brings into sharp relief the role of alcohol in crime in Indigenous communities, particularly the need for policing to actively support strategies and laws to reduce the supply of alcohol.

The report is critical of the inability of many policies and programs to result in on-the-ground changes and notes the need for government to measure outcomes to assess the success of the allocation of funding for services and new initiatives. The report is critical of the lack of cooperation and collaboration across and within levels of government. The report recommends a whole-of-government and whole-of-community approach; it supports a reciprocity-based or partnership approach.

The report makes 123 recommendations on ways to reduce violence (Aboriginal and Torres Strait Islander Women's Task Force on Violence 1999).

Nov. 2000 **COAG** acknowledges the 'mixed success of substantial past efforts to address disadvantage' and commits itself to an 'approach based on partnerships and shared responsibilities with Indigenous communities, program flexibility and coordination between government agencies, with a focus on local communities and outcomes'. It agrees on three priority actions:

1. Investing in community leadership initiatives
2. Ensuring that programs and services deliver practical measures that support families, children and young people, especially 'measures for tackling family violence, drug and alcohol dependency and other symptoms of community dysfunction'
3. Forging greater links between the business sector and Indigenous communities to help promote economic independence (COAG 2000).

Dec. 2000 **The Next Step: Response to the Aboriginal and Torres Strait Islander Women's Task Force on Violence Report** describes the *Aboriginal and Torres Strait Islander Women's Task Force on Violence report* as 'historic' and acknowledges that government 'solutions' in the past have failed. It states that partnerships between communities and government are the way forward. The Queensland Government response includes:

- the announcement of funding for a wide range of initiatives, including 'record' spending on some programs (Queensland Government 2000)
- the Queensland Government's Ten Year Partnership, which is to include as priorities family violence and justice (Queensland Government 2000)

389 To the best of our knowledge this was never conducted.

- the trial of a whole-of-government, whole-of-community approach to Indigenous affairs called the Cape York Partnership, to be coordinated by the Department of the Premier and Cabinet
- that the government will agree on ways of measuring effectiveness (performance indicators) with communities and will work to reduce the number of service agreements that communities have with various government departments.

Dec. 2000 The **Queensland Aboriginal and Torres Strait Islander Justice Agreement 2000–2011** is signed by the Aboriginal and Torres Strait Islander Advisory Board and the Queensland Government. The Justice Agreement describes itself as 'important and historic'. The key goal of the agreement is to reduce the rate of overrepresentation of Indigenous people in custody in Queensland by 50 per cent by 2011. This is to be reached through 'supporting outcomes' such as providing alternatives to court, effective diversion, effective legal assistance, Indigenous community input into sentencing and the employment of more Indigenous Queenslanders in justice-related government agencies (p. 11).

The Justice Agreement does not identify high rates of crime as one of the main reasons for Indigenous overrepresentation in the criminal justice system. Only one supporting outcome, 'effective early intervention with those at risk of becoming involved in the criminal justice system', is focused on crime prevention rather than on improving the operation of the criminal justice system itself. The key action for effective early intervention is 'provide grants for crime prevention programs'.

The agreement attempts to provide performance measures by which actions taken under the agreement can be assessed.

2000 The **Ten Year Partnership** is announced by the Queensland Government, after consultation with Indigenous people, to provide a long-term, 'comprehensive', whole-of-government policy development and performance management framework for addressing Indigenous issues. Eight priority areas are agreed, including 'justice' and 'family violence'. It is stated that under each of the priority areas a statewide agreement will be developed. For the 'justice' priority, this is to be the Queensland Aboriginal and Torres Strait Islander Justice Agreement (see above). For the 'family violence' priority, a Family Violence Agreement: Safe and Strong Families is to be negotiated.[390]

2000 **Cape York Partnerships — Some Practical Ideas**. The Department of the Premier and Cabinet details the government's commitments to a partnership with Indigenous Queenslanders on Cape York, including:

- a commitment to take 'concrete measures' to reduce overrepresentation of young people in Cape York in the juvenile justice system and in detention through additional resources allocated to community-based crime prevention activities linked to local justice initiatives
- diverting resources to strengthening community-based orders available to the courts to minimise the use of custodial sentences
- extending the availability of community conferencing
- beginning to trial Negotiating Tables as the key mechanism for community and whole-of-government engagement under the Cape York Partnership policy.

390 A draft Family Violence Action Plan was published for consultation in July 2003. This action plan was said to be still under development at the time of the *Evaluation of the Aboriginal and Torres Strait Islander Justice Agreement* (Cunneen, Collings & Ralph 2005, p. 27). However, according to the Department of Communities (information provided in October 2007), it does not exist and will not be developed.

Jan. 2001 The ***Violence in Indigenous communities*** report, commissioned by the Australian Government as part of its National Crime Prevention Program, is published (Memmott et al. 2001). The report notes that there is a high level of violence in Indigenous communities in Australia and suggests that rates of violence are increasing and types of violence are worsening in some areas. The report argues that the extent of alcohol consumption in the community and the extent of violence are a direct reflection of the collective emotional and psychological damage that has been caused to individuals, which manifests as 'dysfunctional community syndrome'. The report focuses on programs and strategies for prevention and reducing Indigenous violence. It:

- suggests a need for an agreed form of reporting to provide reliable indicators for particular communities over time
- stresses that the highest priority is the implementation and resourcing of many more community-controlled anti-violence programs, and stresses that Indigenous communities need to be more self-determining
- identifies 29 violence programs planned or implemented in the 1990s in Queensland's Indigenous communities; these include various community justice groups, Petford training farm, several women's shelters and a Queensland Government Self Harm and Substance Abuse Prevention Pilot Program
- states that only two of the Queensland programs identified were evaluated and only four more across the nation were evaluated
- suggests that government must support and coordinate local community initiatives, and help communities to prepare community action plans with respect to violence.

July 2001 ***Yaldilda standing strong: preventing crime in Aboriginal and Torres Strait Islander communities*** (DPC & DATSIP 2001) is published to provide a community crime prevention manual 'to help empower communities to reduce crime' and to help communities to develop their own projects in and for their own communities. It is said that this approach 'respects the ability of Indigenous communities to assess their own needs, source funding and develop community-based projects' (Friedman 2001). The publication states that it is primarily intended for people in rural and remote communities, or small towns.

Nov. 2001 The ***Cape York Justice Study report*** of Justice Tony Fitzgerald focuses on the need to address alcohol consumption as an underlying factor in crime, especially violent crime. It identifies three priority areas to address crime and justice issues:

1. Supporting effective community-based crime prevention and early intervention strategies to prevent Indigenous people coming into contact with the justice system (including, for example, sport and recreational activities for young people).
2. Supporting the diversion of offenders to these community-based alternatives wherever possible.
3. Improving the mainstream criminal justice system by making it more responsive, accessible, efficient and humane (2001, p. 113).

Although this report does emphasise community-based prevention, early intervention and diversion, it also highlights the need for an improved law enforcement response to crime. The report recommends 'zero tolerance' of family violence (p. 9) and calls for criminal justice system reform to:

- ensure that serious violence and abuse are subject to the full force of the law, sending a clear message that violence will not be tolerated
- address barriers to reporting and appropriate policing (pp. 21 & 34).

The report recommends that that local justice initiatives such as 'law and order' by-laws and community justice groups, should be supported to provide effective community-based interventions to deal with crime and justice issues. The report also recommends that police negotiate with individual communities a 'Community Justice agreement' to contain agreed expectations about enforcement of the law, particularly in relation to offences arising from family violence.

April 2002 The **COAG trials** are announced. The trials are to provide 'a whole-of-government cooperative approach'. It is stated that the approach will be 'flexible in order to reflect the needs of specific communities' (COAG 2002). The trials proceed in eight Indigenous communities or regions. The aim of the trials is to improve the way governments interact with each other and with communities to deliver more effective responses. For each COAG trial site, a secretary of an Australian Government department is appointed as champion for the region and is to be the main driver of change at the Australian Government level. In Queensland, Cape York is announced as the trial site. Shared Responsibility Agreements (SRAs), negotiated between governments and communities, are to be a key feature of the initiative.

April 2002 The **Meeting Challenges, Making Choices (MCMC) strategy** is the Queensland Government's response to the Cape York Justice Study. The biggest change resulting from the MCMC strategy is the implementation of **Alcohol Management Plans (AMPs)** to restrict the availability of alcohol in 19 Indigenous communities (often referred to as the MCMC communities)[391] through 'restricted area' regulations under the Liquor Act or 'dry place' declarations. AMPs have been progressively implemented since December 2002 (the government reviewed AMPs in 2005–06). The MCMC strategy also implemented:

- the establishment of the Cape York Coordination Unit in Cairns as part of the Department of the Premier and Cabinet to provide a whole-of-government response to the issues faced in Cape York; linked to this is Cape York Partnerships, with Noel Pearson as Director, to promote partnerships with communities, government and business as the way forward
- 'Negotiation Tables' as the key mechanism for community engagement for all Indigenous communities
- Government Champions — every chief executive officer of a Queensland Government agency is appointed as Champion for one or more of Queensland's discrete Aboriginal or mainland Torres Strait Islander communities and Cape York communities with a significant Indigenous population
- some improvements regarding the legislative framework and training for community justice groups.

The government's MCMC response identifies the following priorities in the crime and justice area:

- Queensland police will work with community justice groups, councils and other government agencies to develop a *Safer Communities* strategy[392] that will include night patrols and an improved police response to emergencies.
- A SCAN (Suspected Child Abuse and Neglect) child protection team will be established in every community.

391 Aurukun, Bamaga, Cherbourg, Doomadgee, Hope Vale, Injinoo, Kowanyama, Lockhart River, Mornington Island, Mapoon, Napranum, New Mapoon, Palm Island, Pormpuraaw, Seisia, Umagico, Woorabinda, Wujal Wujal and Yarrabah.

392 We are not aware of any such strategy having been developed.

- The Indigenous Justice of the Peace Program and Local Justice Initiatives Program will be strengthened and expanded.
- Community policing will be enhanced and expanded in a number of Indigenous communities across the state through the Queensland Aboriginal and Torres Strait Islander Police (QATSIP) project.[393]
- Additional training will be offered to community justice groups to support their expanded role in diversionary initiatives.
- Police will assess existing policing practices and government will explore innovative alternatives to sentencing, such as using outstations as diversionary measures and community-based corrections.

July 2002 The operations and responsibilities of the **Cape York Coordination Unit** in Cairns are transferred from the Department of the Premier and Cabinet to DATSIP; DATSIP becomes the lead agency for Aboriginal and Torres Strait Islander matters (DATSIP 2002, 2003).

2002 The Queensland Government releases the **Strategic Framework for Community Crime Prevention**. The implementation of the Strategic Framework was said to be founded in partnerships between the Queensland Government, local government and the local community. Local action teams, called BSCATs — Building Safer Communities Action Teams — are to be formed in each participating local government area, to identify the local incidence and causes of crime and community safety concerns, and develop, implement and evaluate local strategies to address those concerns (see Mallet 2005).

2003 The ***Aboriginal and Torres Strait Islander Justice Agreement Progress Report January 2002 – June 2003*** (DATSIP 2003) shows no improvement in Indigenous overrepresentation but that adult incarceration rates are worse and juvenile detention rates remain high. It also shows that money provided to crime prevention initiatives is mostly provided on a non-recurrent basis and to initiatives based in regional centres rather than in Queensland's Indigenous communities. It states that through the Negotiation Tables the Torres Strait Islands are negotiating a regional justice agreement action plan.[394]

Mar. 2003 Queensland's **Aboriginal and Torres Strait Islander Advisory Board** is disbanded (DATSIP 2003).

July 2003 Most of ATSIC's funding and responsibilities are transferred to the newly created Australian Government administrative agency **Aboriginal and Torres Strait Islander Services (ATSIS)**. ATSIC, the elected body, continues to have responsibility for strategic policy.

Nov. 2003 The first ***Overcoming Indigenous disadvantage: key indicators*** report of the Steering Committee for the Review of Government Service Provision, commissioned by COAG, identifies indicators to measure the impact of changes to policy and service delivery and the outcomes for Indigenous people (SCRGSP 2003). Headline indicators include:

- substantiated child protection notifications
- deaths from homicide and hospitalisations for assault
- victim rates for crime
- imprisonment and juvenile detention rates.

393 See Chapter 10 for a detailed discussion of the QATSIP project.

394 To the best of our knowledge, no such plan was ever finalised or actioned.

The report shows that, in relation to imprisonment and juvenile detention rates:

- at 30 June 2002, Indigenous people are 15 times more likely than non-Indigenous people to be in prison; around one-quarter of all sentenced Indigenous prisoners have assault as their most serious offence
- the rate of juvenile detention has declined over the last five years but Indigenous juveniles are still 19 times more likely to be detained than non-Indigenous juveniles.

The report also identifies strategic areas for action and 'strategic change indicators', including proportion of diversions as a proportion of all juvenile offenders, alcohol consumption and harm, and repeat offending. For example, in relation to the 'proportion of diversions as a proportion of all juvenile offenders' the report states: 'An advantage of diversions is that they allow the offender to be admonished without the necessity of interaction with traditional court processes. The use of diversions, therefore, can have a critical influence on the extent of an individual's involvement in the criminal justice system (and consequent implications for future prospects)' (SCRGSP 2003, p. 7.25).

Feb. 2004 The Community Engagement Division of the Department of the Premier and Cabinet, including **Crime Prevention Queensland**, was **transferred to the Department of Communities**.

June 2004 COAG agrees to a **National Framework of Principles for Government Service Delivery to Indigenous Australians**, which includes a commitment:

- to work in partnership with communities
- that efforts will be focused on the priority areas identified in the *Overcoming Indigenous disadvantage* reports
- that a focus will be maintained on local and regional outcomes
- that services will take into account local circumstances
- to bilateral agreements such as Shared Responsibility Agreements (SRAs) and Regional Partnership Agreements (RPAs, which are negotiated to coordinate government services across several communities in a region)
- to regular performance review, evaluation and reporting, including through the *Overcoming Indigenous disadvantage* reports (COAG 2004).

July 2004 In what it describes as a 'momentous' decision, the Australian Government transfers ATSIC and ATSIS responsibilities and over $1 billion worth of funding for Indigenous programs to '**mainstream**' Australian Government departments.[395] It is said that this transfer will allow the Australian Government to focus on 'working with local communities listening directly to what they want' (Vanstone, cited *Lateline* 2004; see also Australian National Audit Office 2007, p. 11).

Nov. 2004 The **National Indigenous Council** is established; it is an appointed advisory body to the Australian Government through the Ministerial Taskforce on Indigenous Affairs and is chaired by Dr Sue Gordon, a Western Australian magistrate. The council is to provide expert advice to government on improving outcomes for Indigenous Australians.

395 In 2003–04 there was a total identifiable Commonwealth expenditure on Indigenous affairs of $2.8 billion, including both mainstream and Indigenous-specific expenditure. Around $1.5 billion was spent through mainstream departments and agencies, such as health, education and social security portfolios. ATSIC and ATSIS received about $1.3 billion in funding from the Australian Government.

Mar. 2005 ATSIC and ATSIS are formally abolished by the Australian Government and the **Office of Indigenous Policy Coordination** is established within the then Department of Immigration and Multicultural Affairs. **Indigenous Coordination Centres** (ICCs) are established as offices through which departments could deliver services to Indigenous communities.

Sept. 2005 The Queensland Government launches the **Partnerships Queensland: Future Directions Framework for Aboriginal and Torres Strait Islander Policy in Queensland 2005–2010 (PQ)**. This is intended to provide an overarching whole-of-government policy framework to guide 'a new way of doing business' with Indigenous Queenslanders. The PQ framework is said to 'consolidate' existing policies, including the 'Making Choices, Meeting Challenges' strategy, and it identifies four key goals:

- strong cultures
- safe places
- healthy living
- skilled and prosperous people and communities.

These goals are to be achieved through collaboration and partnerships at the local, regional and state levels.

The key goal of 'safe places' is said to include the goals of:

- alcohol management
- promoting the development of community-based approaches to justice issues
- crime prevention
- preventing homelessness
- preventing and responding to emergencies.

The goals of 'safe places' are also said to include 'creating a fair and equitable justice system' and 'reducing the incidence of crime, especially interpersonal violence'. It says it will achieve this by:

- promoting greater involvement in the administration of justice
- working with communities to promote leadership and greater community involvement in local crime prevention initiatives
- supporting and promoting the work of local community justice groups in responding to justice issues.

The policy states that it is to be assessed through 'unprecedented' performance measurement and reporting mechanisms (designed to align with the indicator framework in *Overcoming Indigenous disadvantage: key indicators*). Indicators for success include that:

- the level of violence in Indigenous communities is reduced
- the rate of Indigenous people's contact with the criminal justice system is reduced, including re-offending
- the number of deaths in custody is reduced
- there is increased community involvement in local crime prevention initiatives and increased community support for community justice groups.

Dec. 2005 The bilateral **Agreement on Aboriginal and Torres Strait Islander Service Delivery between the Commonwealth of Australia and the Government of Queensland 2005–2010** sets out:

- the principles agreed in the National Framework of Principles for Government Service Delivery to Indigenous Australians
- the agreed priority areas identified in the *Overcoming Indigenous disadvantage* report and those in the PQ framework
- agreement that shared responsibility and partnerships will be achieved through agreements at the local level
- that SRAs are to be negotiated at the community level through Negotiation Tables and supported by an Action Plan
- that these agreements are to provide the mechanism for promoting the integration of government service delivery to communities.

2005 The second ***Overcoming Indigenous disadvantage: key indicators*** report shows, among other things, these deteriorating outcomes:

- The proportion of Indigenous people who reported being a victim of violence increased from 13 per cent to 23 per cent between 1994 and 2002.
- Increased imprisonment rates; Indigenous women's imprisonment increased by 25 per cent and Indigenous men's imprisonment increased by 11 per cent over the period 2000 to 2004.
- At 30 June 2003, Indigenous juveniles were 20 times more likely to be detained than other juveniles (SCRGSP 2005).

In relation to the strategic change indicator of 'Indigenous juvenile diversions as a proportion of all juvenile diversions', for example, the report states that a smaller proportion of Indigenous juveniles are diverted than is generally the case for other juveniles. It suggests that diversionary mechanisms, such as cautioning or conferencing, in combination with sports and leisure programs can contribute to a reduction in antisocial behaviour and offending. In relation to the strategic change indicator of repeat offending, the report states: 'The introduction of special courts — for example, the Koori Court in Victoria, the Murri Court in Queensland and the NSW Circle Sentencing Court — has resulted in a reduction in re-offending' (SCRGSP 2005, p. xliii).

Sept. 2005 A Queensland Government ***Meeting Challenges, Making Choices evaluation report*** (2005) notes that achievements in responding to the Cape York Justice Study include:

- implementing alcohol supply restrictions and enforcement in 18 of the 19 MCMC communities
- providing a statutory basis for the role of community justice groups in these communities
- establishing the Government Champions program
- operating Negotiation Tables in most communities to conduct local-level planning between communities and government.

The evaluation notes that further work is needed to achieve the goals of the MCMC strategy in terms of tackling alcohol problems in particular, including demand reduction programs and removing councils from the business of canteen management. The evaluation also notes that there has been limited progress toward other key initiatives under the MCMC strategy, such as the development of a Family Violence Strategy.

2005 The independent ***Evaluation of the Aboriginal and Torres Strait Islander Justice Agreement*** finds that, since the Justice Agreement was signed, rates of detention for Indigenous juveniles and their levels of overrepresentation have not decreased, and were actually higher in 2003–04 than in 2000–01. More positively, rates of imprisonment for Indigenous adults have generally declined. The report also notes that each department has made some progress in implementing strategies to reduce Indigenous imprisonment rates (such as police cautioning, diversionary programs, community justice groups), but emphasises that these need additional funding and support to achieve their aims. The evaluation further highlights the need for several other strategies to be considered, including more targeted crime prevention programs and law reform in relation to alcohol restrictions (Cunneen, Collings & Ralph 2005, p. xv).

Overall, the evaluation is critical of the Justice Agreement's major aims and principles. For example, it

- argues that identification and discussion of the issue of Indigenous overrepresentation is the weakest part of the Justice Agreement and that more precision is needed regarding the causes of overrepresentation, so that effective programs and strategies can be developed
- states that the agreement fails to acknowledge Indigenous people as victims of crime, not just offenders.

The evaluation notes that there is a need to prioritise and reconsider the agreement's 'supporting outcomes', as some are more proximate than others to the task of reducing Indigenous overrepresentation (Cunneen, Collings & Ralph 2005).

The evaluation suggests that outcome areas should be condensed to diversion of Indigenous children from all stages of the criminal justice system; Indigenous access to and equity/equality before the law; and effective Indigenous policy and programs for offenders.

Major failings identified by the evaluation are:

- the failure of the QPS to ensure that alternatives to arrest are used for Indigenous juveniles and adults and the failure to develop the QATSIP program beyond the pilot communities (p. xvi)
- the failure of DATSIP to properly train and resource the community justice groups (p. xvi)
- the failure of the Department of Justice and Attorney-General to resource and support Murri Courts (p. xvi)
- the failure of Negotiation Tables to adequately deal with justice issues in the development of community action plans or local-level agreements; there is a need to localise issues through local or regional justice agreements or MOUs (pp. xix, & 188–9).

2006 ***Queensland Government response to the Evaluation of the Aboriginal and Torres Strait Islander Justice Agreement*** (Queensland Government 2006a). The government states that the ongoing audit of the implementation of the Justice Agreement will be achieved through the PQ reporting processes. Strategies and deliverables will be developed under PQ's Crime and Violence Response Plan,[396] including 'innovative strategies' to:

- reduce contact by Aboriginal and Torres Strait Islander people with the criminal justice system
- reduce Aboriginal and Torres Strait Islander offending
- reduce Aboriginal and Torres Strait Islander victimisation
- improve access by Aboriginal and Torres Strait Islander people to justice, and justice agency responsiveness to Aboriginal and Torres Strait Islander people.

The response also states that the QPS is undertaking the 'Policing Indigenous Communities Project' under the auspices of the **Law and Justice CEO Committee** to identify best-practice options for policing in Indigenous communities.[397]

2006 The ***Partnerships Queensland baseline report*** provides the first stage of performance reporting under the PQ framework and provides data against the key indicators. It states that agencies will provide an annual report to Cabinet detailing progress toward the goals of PQ (Queensland Government 2006b).

2006 The ***Partnerships Queensland implementation progress report*** describes progress, including:

- the development and implementation of a Partnerships Queensland Five Year Action Plan, which is said to focus on priority reforms and service improvements
- developing LIPAs with Indigenous communities, as well as regional-level agreements. It cites the development of the Lockhart River Community Plan 2004–2008 as a 'comprehensive strategic community plan' to have come out of the Negotiation Table process.[398]

June 2006 The Australian Government convenes all state and territory governments to attend an **Intergovernmental Summit on Violence and Child Abuse in Indigenous Communities**, which results in the setting up of a **National Indigenous Violence and Child Abuse Intelligence Task Force** as part of a whole-of-government response to remedy violence and child abuse in remote, rural and urban Indigenous communities. The role of the task force includes improved coordination and collection of intelligence and research.

July 2006 **COAG** agrees that 'generational commitment' is needed to overcome Indigenous disadvantage.

July 2006 The Queensland Government transfers the responsibilities and functions of DATSIP to the Department of Communities and its **Office of Aboriginal and Torres Strait Islander Partnerships**. Responsibility for CJGs is transferred from DATSIP to the Department of Justice and Attorney-General (Queensland Government 2006a).

396 Information provided by the Department of Communities in October 2007 indicates that this plan does not exist and will not be developed (pers. comm., officer of the Department of Communities, October 2007).

397 The Law and Justice CEO Committee has since been disbanded and this agenda abandoned (pers. comm., officer of JAG, November 2008).

398 It should be noted that we saw the Lockhart River plan and, though it is glossy, it is our view that it is not clearly action focused — it is not clear how actions will be achieved or how it will lead to better outcomes.

Aug. 2006 The Queensland Government creates for a three-year period the **Government Coordination Office — Indigenous Service Delivery** within the Department of Communities to drive 'urgent and sustained' service delivery intervention for Indigenous people in the 19 MCMC communities. This office is to develop whole-of-government service delivery plans for each community that address the priorities of family violence, child abuse and alcohol. It is said that this office will provide a new focus on 'place-based' solutions to match the needs of the community — as identified by the community — to services and solutions and government funds. The place-based approach is said to emphasise the need for government coordination staff to live and work in discrete communities (see Queensland Government 2008e).

Oct. 2006 The ***Review of the Cape York COAG Trial: final report*** is released (Urbis Keys Young 2006). After visits to a number of Cape York communities and consultations with key stakeholders, the review finds several positive outcomes of the trial so far. These include:

- increased Commonwealth Government engagement with communities
- improved consultative mechanisms involving all levels of government
- improved cooperation between various Commonwealth and state government bodies.

There was also very positive feedback in some communities, such as in Lockhart River, where a senior public servant was said to have worked successfully with and on behalf of the community.

Overall, however, the review identifies a number of shortcomings in the implementation of the trial. In particular, there was a lack of clarity about the aims and activities of the trial, and no clear strategic direction. Not surprisingly, then, the trial did not have a particularly high profile and very few people had a clear understanding of what it involved. There was also a perception among many stakeholders that the trial was essentially a Commonwealth Government initiative, with little 'obvious' activity or involvement in the trial by Queensland Government's DATSIP. Consistent with this, the review notes that the trial has made no major progress in so far as reducing the extent to which various government agencies operate in isolation from each other (for example, there are no joint contracts or integrated funding). Furthermore, many of those in the communities feel as though their dealings with government agencies are still 'complex, and confusing, and often frustrating, fragmented and unduly legalistic' (p. ii).

The review notes that many stakeholders had concluded that the trial was finished, given that the Department of Employment and Workplace Relations withdrew as lead agency at the end of 2005 and no further activity had commenced since then. This was despite there having been no formal end to the trial. It recommends that a decision about the future of the trial be made and clearly communicated to all parties.

Dec. 2006 The Australian Government announces its **Blueprint for Action in Indigenous Affairs**. The blueprint identifies key strategies, including:

- to build incentives and mutual obligation to counter passivity and promote self-reliance
- to streamline and coordinate government service provision, including changing business processes to reduce red tape
- to ensure that all work is transparent and informed by evidence.

For remote communities, the blueprint refers to intensive interventions in a number of priority communities, as agreed with state and territory governments, 'to stabilise the community and demonstrate the merit of coordinated investment and action'. The blueprint sets out priority actions, including in relation to education, children and justice, and sets out how progress against these actions is to be measured. The first report against the blueprint priorities is to be provided by December 2007 (Australian National Audit Office 2007).

Mar. 2007 The report **'An independent assessment of policing in remote Indigenous communities for the Government of Australia'** was delivered. This report was commissioned by the Australian Government after the Intergovernmental Summit on Violence and Child Abuse in Indigenous Communities held in 2006. It considered policing levels in remote Indigenous communities in Queensland, the Northern Territory, Western Australia and South Australia in order to inform the distribution of federal government money to the states and territories for police infrastructure and housing to help increase the permanent presence of police (Valentin 2007).

May 2007 The third ***Overcoming Indigenous disadvantage: key indicators*** report (SCRGSP 2007) shows that Indigenous people's involvement with the criminal justice system in Australia continues to deteriorate. For example, the report shows that from 2002 to 2006:

- Indigenous imprisonment rates for women increased by 34 per cent and the imprisonment rate for men increased by 22 per cent. After adjusting for age differences, Indigenous people were 13 times more likely than non-Indigenous people to be imprisoned in 2006.
- The difference between Indigenous and non-Indigenous juvenile detention rates increased between 2001 and 2005. At 30 June 2005, Indigenous juveniles were 23 times more likely to be detained than non-Indigenous juveniles.[399]

The report again cites modified court processes that allow Indigenous input into sentencing, such as the Murri Court, as 'things that work' in this area. Diverting juveniles from detention is said to be 'an important factor in reducing re-offending' (SCRGSP 2007, p. 7.4).

399 From this *Overcoming Indigenous disadvantage* report the previous headline indicator of 'victim rates of crime' is replaced by 'family and community violence'.

May 2007 The Cape York Institute for Policy and Leadership's ***From hand out to hand up*** proposes a radical **Welfare Reform Trial** in four Indigenous communities to address welfare dependency and the breakdown of social norms, which are regarded as causal factors in the dysfunction of communities in the Cape (CYIPL 2007). The welfare reforms would make payments conditional on responsible behaviour, such as ensuring children are going to school and being free from convictions for certain offences. A **Family Responsibilities Commission (FRC)** is proposed to provide a subjudicial body to administer the scheme and make decisions about a person's compliance with ensuring school attendance and other such matters. The FRC is to use case management and support services, with income management as a last resort to reform individual behaviour. The Australian and Queensland Governments subsequently commit to supporting the trial.

June 2007 ***Ampe akelyernemane meke mekarle: 'Little children are sacred': report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse*** is released (Wild & Anderson 2007). This report was commissioned by the Northern Territory Government in 2006 after media reports indicating a significant child sexual abuse problem in remote communities in the NT. The report includes 97 recommendations. After the report is released, the Australian Government immediately declares a 'national emergency' in Indigenous communities in the NT and begins its 'intervention' into the management of NT Aboriginal communities. The intervention includes the introduction of:

- an increased police presence in communities
- alcohol restrictions in remote communities
- welfare policy reforms that seek to address the connection between social dysfunction, child neglect and substance abuse on one hand, and passive welfare on the other:
  - welfare payments are made conditional on responsible behaviour such as ensuring that children are going to school
  - a portion of all welfare payments is quarantined for the purchase of household necessities (see Altman & Johns 2008).

July 2007 **Indigenous Partnerships Agreement: An Agreement between Queensland's Aboriginal and mainland Torres Strait Islander Communities and the Queensland Government 2007–2010**. The Queensland Government describes as 'historic' this new partnership agreement signed with the mayors of 19 Indigenous communities. The new agreement is said to be focused on actions that deliver results to deal with disadvantages.

The agreement is said to provide an overarching framework for governments and communities to work together by outlining the priorities and expectations for both government and community action. Priorities identified include child safety and family wellbeing, alcohol and associated violence, and policing.

The agreement provides that each community will enter into its own LIPA identifying actions to address the priorities identified. These are to be negotiated by the end of 2007 with each community through the Negotiation Tables.[400] The agreement states:

- a fund is to be established to support one-off initiatives arising out of the LIPAs
- annual progress reports are to be produced on LIPAs to track progress.

400 Three LIPAs were agreed before the government changed to pursuing Local Implementation Plans (LIPs).

The agreement states that a formal evaluation will be undertaken over the next three years. The agreement provides some key indicators by which success can be measured. These indicators align with those identified by the *Overcoming Indigenous disadvantage* reports. The agreement also states that more detailed measures will be provided in the LIPAs. A community wellbeing indicator to be reported against will be the number of offences against the person stratified by 'alcohol related' and 'other'.

July 2007 From this time, machinery-of-government changes caused the **lead agency responsibility for crime prevention in Queensland to transfer from the Department of Communities to the QPS**.

Dec. 2007 The Queensland Government's **Government Coordination Office — Indigenous Service Delivery** is transferred from the Department of Communities to the Department of the Premier and Cabinet because it is said it will be better positioned there to address urgent concerns about service delivery to remote Indigenous communities in the state.

Dec. 2007 **COAG agrees targets for 'Closing the Gap'** between the outcomes experienced by Indigenous and non-Indigenous Queenslanders. The agreement is described as 'historic' (see Australian Government 2009). These targets include:

1. Close the life expectancy gap within a generation
2. Halve the mortality gap for children under five within a decade
3. Halve the gap in reading, writing and numeracy within a decade.

COAG also states that it will specifically address the debilitating effect of substance and alcohol abuse on Indigenous Australians. The Commonwealth agrees to double the $49.3 million in funding previously provided by COAG in 2006 for substance and alcohol rehabilitation and treatment services, particularly in remote areas. The states and territories also commit to investing substantial funding, including strengthening policing of Alcohol Management Plans and licensing laws, as well as additional treatment and family support services (COAG 2007).

Oct. 2007 The Australian National Audit Office releases its report ***Whole of government Indigenous service delivery arrangements***. It documents the Australian Government's Indigenous expenditure over three financial years as follows:

- $2.9 billion in 2005–06
- $3.4 billion in 2006–07
- $3.5 billion in 2007–08.

The audit suggests that progress has been made towards developing ways of delivering Indigenous services in a more collaborative, coordinated, whole-of-government approach, but that further progress is needed.

2007 The **Aurukun Local Partnerships Project** commences. Queensland's Department of Communities, through the Government Coordination Office, introduces a two-year, multi-agency Aurukun Local Partnerships Project to help the Aurukun community gain maximum advantage from employment and business opportunities generated by a Chalco two-year feasibility study for a bauxite mine, and other opportunities in the Aurukun area. The first stages of the project involve the recruitment of the Aurukun Local Partnerships Team and the construction of residential accommodation for the team, both of which are under way. Project Director is former Aurukun OIC Sgt Andrew Clarkson.

2007 The Attorney-General's Department of the Australian Government releases a ***Draft National Indigenous Law and Justice Strategy*** (Australian Government, Attorney-General's Department 2007) that had been under development since 2003. It states it is intended to provide a 'bipartisan, coordinated, long-term and multi-jurisdictional approach to reducing the rate of Indigenous representation in courts and in custody while addressing the complex and underlying issues of Indigenous disadvantage'. The strategy is to be accompanied by an 'action plan' that identifies key actions and methods of implementation; it is proposed that the action plan will be monitored and reviewed every two years. The strategy aims to 'reduce crime' and to this end includes the action 'address the underlying causes of crime'. Very few elements of the plan would appear to have any substantial crime prevention potential.

Jan. 2008 The Australian Government announces its decision to disband the **National Indigenous Council** (Karvelas 2009).

Feb. 2008 The Prime Minister of Australia, the Hon. Kevin Rudd MP, **formally apologises to Indigenous people for past mistreatment, especially the Stolen Generations**, in Federal Parliament. The apology states that it represents 'a new beginning, a new partnership'. It reiterates the commitment made by COAG to '**Closing the Gap**' in life expectancy, educational achievement and economic opportunity and commits to report to parliament at the beginning of each year on progress toward closing the gap.

May 2008 The Australian Government announces three additional targets for **'Closing the Gap'**:

1. To ensure that all Indigenous four-year-olds in remote communities have access to early childhood education within five years
2. To halve the gap for Indigenous students in Year 12 attainment or equivalent attainment rates by 2020
3. To halve the difference in employment outcomes between Indigenous and non-Indigenous Australians within a decade (COAG 2008).

April – June 2008 The Queensland Government establishes the **State-wide Community Justice Reference Group**. This group includes representation from the Indigenous communities, to provide Indigenous input into community justice processes and the ongoing implementation of the Aboriginal and Torres Strait Islander Justice Agreement (Queensland Government 2006a, 2008l).

June 2008 The Queensland Government ***Quarterly report on key indicators in Queensland's discrete Indigenous communities January–March 2008*** is tabled in parliament. This report, the first in the series, states that it provides a summary of progress against both the Partnerships Queensland Agreement and the COAG-agreed targets. The report includes brief details of initiatives taken towards the Partnerships Queensland priority of 'safe communities' and reports against the key indicators of community wellbeing, including measures of hospital admissions for assault, reported offences against the person, convictions for breaches of alcohol restrictions, school attendance, children subject to substantiated notifications and children subject to finalised child protection orders (Queensland Government 2008b). As well as providing data on these measures for all the communities as a whole, these reports present information at the individual community level.

June 2008 Peter Davis SC reports on his **Review of Cape York Sentences** (Davis & Eberhardt 2008). The review considers 71 cases involving Indigenous offenders sentenced in the District Court, the vast majority of which involve offences committed in Cape York communities. The review was triggered by the controversy surrounding the lack of actual imprisonment in the sentences imposed by the District Court in 2007 for nine offenders who pleaded guilty to raping a 10-year-old girl at Aurukun. The review concludes that sentencing patterns for sexual offences occurring in Cape York are not lower than sentencing patterns occurring for offences elsewhere in the state.

June 2008 Queensland's Department of Justice and Attorney-General releases the report ***Improving Cape York justice service***s (O'Connor 2008). The report focuses on issues relating to the fairness and equity of justice services such as court processes and legal services. For example, it recommends that consideration be given to introducing Murri Court processes in Cape York communities.

July 2008 **Welfare Reform Trials**, as proposed in *From hand out to hand up* (CYIPL 2007, see above), commence in Aurukun, Hope Vale, Mossman Gorge and Coen.

July 2008 **Further alcohol reforms commence**. The Queensland Government introduces a range of measures, including new laws, to help make communities 'as dry as possible'. In addition, it is stated that the alcohol reforms will provide funding for support services to communities, such as drug and alcohol treatment services (Queensland Government 2008a). The Queensland Government commits $65 million over four years for support services and the Commonwealth is to provide an additional $36 million. On 1 July 2008, Woorabinda becomes the first community to go completely dry under the reforms (Nelson-Carr 2008a).

Aug. 2008 The ***Quarterly report on key indicators in Queensland's discrete Indigenous communities April–June 2008*** shows that rates of hospital admissions for assault continue to be on average almost 20 times the Queensland state average and rates of reported offences against the person continue to be on average about 10 times the state average (Queensland Government 2008c).

Sept. 2008 The Queensland Government announces its 'blueprint for the future' in ***Toward Q2: tomorrow's Queensland*** (2008h). The document sets out five ambitions for Queensland in 2020 to be strong, green, smart, healthy and fair. None of the targets specified relate specifically to Indigenous Queenslanders, but in relation to the ambition to be a 'fair' state the document refers to wanting to support 'safe and caring communities' and notes that there is entrenched disadvantage in Queensland's Indigenous communities. *Toward Q2* notes that Indigenous disadvantage is already being addressed by reform agendas at the state and federal level. Although not Indigenous-specific, *Toward Q2* also relevantly includes the target 'all children to have access to quality early childhood education so they are ready for school'.

Nov. 2008 To underpin the *Closing the Gap* initiative, COAG endorses a new **National Indigenous Reform Agreement** between the Commonwealth and the states and territories and commitments of $4.6 billion across five Indigenous-specific National Partnership Agreements. Annual reporting against the agreement is to be conducted by the Productivity Commission. The Indigenous-specific agreements are:

- National Partnership Agreement for Indigenous Early Childhood Development
- National Partnership Agreement for Indigenous Health Outcomes
- National Partnership Agreement for Economic Participation
- National Partnership Agreement for Remote Indigenous Housing
- National Partnership Agreement for Indigenous Remote Service Delivery.

Feb. 2009 The first annual statement on the *Closing the Gap* initiative, ***Closing the gap on Indigenous disadvantage: the challenge for Australia***, is tabled in Federal Parliament.

Feb. 2009 After a period of consultation, the Australian Government's Attorney-General's Department calls for nominations for a new **National Indigenous Law and Justice Advisory Body** to provide high-level policy advice to government on Indigenous law and justice policy matters.

Feb. 2009 The Queensland Government's new **Queensland Aboriginal and Torres Strait Islander Advisory Council** meets for the first time. The 14 council members are said to provide 'a direct link' between Indigenous people and government. It is said that the Minister for Aboriginal and Torres Strait Island Partnerships will chair the meetings, with the Premier participating when possible. It is said the council will provide advice to government 'about how we can realistically meet the COAG targets that have been set' (Nelson-Carr 2009; see also the ATSIP website at <www.atsip.qld.gov.au/government/networks/advisor-council/>).

Mar. 2009 Post-election machinery-of-government changes implemented in Queensland transfer the responsibilities of the **Government Coordination Office — Indigenous Service Delivery** to the Department of Communities. Within the Department of Communities, **Aboriginal and Torres Strait Islander Partnerships** now carries the mandate for whole-of-government action of Indigenous service delivery; the Indigenous Government Coordination Office no longer exists as such.

April 2009 The Standing Committee of Attorneys-General releases the consultative draft of the **National Indigenous Law and Justice Framework 2009–2015** for consultation until July 2009. The framework is to 'provide a national approach to serious and complex justice issues affecting Aboriginal and Torres Strait Islander people'. It is stated that the draft framework takes a 'holistic approach to addressing the underlying causes and ongoing consequences of Indigenous peoples' interactions with the Australian justice systems, both as victims and [as] offenders'. The main goals are to reduce overrepresentation of Indigenous people in the criminal justice system, reduce alcohol and substance abuse, and increase community safety.

The framework acknowledges that the report of the Royal Commission into Aboriginal Deaths in Custody is a foundation document guiding the work of governments in this area. It states, for example, that 'Aboriginal and Torres Strait Islander people in the criminal justice system are often incarcerated for minor offences such as fine default'. The framework provides strategies and actions focused on reducing inappropriate contact with the criminal justice system, including by 'promoting consideration of all policing options'. The framework also includes a strategy to 'implement a broad range of crime prevention initiatives at the local level'.

The framework states that there is no funding program attached but that it 'articulates a vision'. It describes a process for monitoring its implementation. It states that a comprehensive review of the framework is to be undertaken in 2013–2014.

June 2009 The **Coordinator-General for Remote Indigenous Services**, Brian Gleeson, is appointed to report to the Hon. Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, and COAG. The Coordinator-General's role is said to be 'to cut through bureaucratic blockages and red tape, and to make sure services are delivered in remote communities' (COAG 2009).

June 2009 Queensland's Aboriginal and Torres Strait Islander Partnerships Minister, the Hon. Desley Boyle MP, launches a 'first of its kind', whole-of-government reconciliation action plan (Boyle 2009b). The **Queensland Government Reconciliation Action Plan 2009–2012** focuses on 20 key cross-agency initiatives that it states build on the *Closing the Gap* commitments, strengthen the relationships among the government, community, organisations and Indigenous and non-Indigenous people, and increase Indigenous people's involvement in government policy-making. The Queensland Government is to publicly report on progress of implementation of the plan by June 2012. Actions include, for example, that:

- The Queensland Government will support the whole-of-government Queensland Aboriginal and Torres Strait Islander Advisory Council to provide strategic advice to the government on policies, programs and services. (The target relating to this action is that 'by June 2012, all Queensland Government agencies will have engaged with the Queensland Aboriginal and Torres Strait Advisory Council on at least one policy, program or service'.)
- All Queensland Government agencies will have Aboriginal and Torres Strait Islander cultural awareness and cultural capability strategies in place to enable staff to better understand, respect and appropriately work with and deliver services to Aboriginal and Torres Strait Islander people and communities. (The target relating to this action is that by June 2012 all Queensland Government agencies will have appropriate cultural capability strategies in place for employees, especially for those delivering frontline services.)
- The Queensland Government will work actively with Aboriginal and Torres Strait Islander people to achieve the COAG *Closing the Gap* targets and strategies, including in the key areas of childhood, schooling, housing, health and economic participation. (The target relating to this action is that by December 2009 the Queensland Government will have strategies in place to meet the COAG targets.)

July 2009 ***Overcoming Indigenous disadvantage: key indicators 2009*** (SCRGSP 2009), the fourth in this series, adjusts the *Overcoming Indigenous disadvantage* reporting framework to align with the six COAG targets for *Closing the Gap* and reports accordingly against an additional number of headline indicators. Among other things, the report shows that involvement of Indigenous people in the criminal justice system has worsened. It shows:

- The imprisonment rate increased by 46 per cent for Indigenous women and by 27 per cent for Indigenous men between 2000 and 2008. After adjusting for age differences, Indigenous people were 13 times as likely as non-Indigenous people to be imprisoned in 2008.
- The Indigenous juvenile detention rate increased by 27 per cent between 2001 and 2007. Indigenous juveniles were 28 times as likely to be detained as non-Indigenous juveniles at 30 June 2007.

The report again identifies as 'things that work' various initiatives to make the sentencing process of courts for Indigenous offenders more culturally appropriate, such as the Murri Court in Queensland (SCRGSP 2009, p. 20; see also SCRGSP 2007, p. 23). The report also again emphasises the potential of diversionary measures such as cautioning and conferencing to contribute to a reduction in antisocial behaviour and offending.

The report also shows:

- The rate of substantiated notifications for child abuse or neglect increased for both Indigenous and non-Indigenous children from 1999–2000 to 2007–08, with the rate for Indigenous children more than doubling over this period. Indigenous children were more than six times as likely as non-Indigenous children to be the subject of a substantiation of abuse or neglect in 2007–08 (SCRGSP 2009, p. 25).
- Indigenous people were hospitalised as a result of spouse or partner violence at 34 times the rate of non-Indigenous people (SCRGSP 2009, p. 26).

July 2009 **COAG** (2009):

- agrees to prepare a national strategy to improve food security for Indigenous people living in remote Australia before the end of 2009
- adopts a National Integrated Strategy for Closing the Gap
- agrees to a Closing the Gap: National Indigenous Education Statement
- signs a Closing the Gap: National Partnership Agreement on Remote Indigenous Public Internet Access
- also agrees to a Closing the Gap: National Urban and Regional Service Delivery Strategy to address Indigenous disadvantage in urban and regional locations.

July 2009 The Queensland Government publishes the ***Quarterly report on key indicators in Queensland Indigenous communities January–March 2009*** (2009b), the fifth in this series. The report shows that rates of hospital admissions for assault and rates of offences against the person, for example, remain high.

Dec. 2008 The Queensland Government's inaugural ***Closing the Gap report: 2007–08 report: indicators and initiatives for Aboriginal and Torres Strait Islander peoples*** (2008e) affirms the government commitment to work in partnership 'to find new ways and new solutions'.

The report states that it 'demonstrates again' the size and scope of the gap in life outcomes and opportunities between Indigenous and non-Indigenous Queenslanders. The report shows that the gap across almost all indicators is greatest for Indigenous Queenslanders living in remote communities, especially the discrete communities.

The report identifies the following 'areas for action' to achieve COAG targets and Q2: early child development; home environment; economic participation; education and training; healthy lives; safe and supportive communities; governance and leadership; land and culture.

Reporting under this COAG framework is said to build on the Partnerships Queensland reporting. The report states that a more comprehensive report will be produced in 2012–13.

July 2009 The Honourable Karen Struthers MP, Minister for Communities and Housing, launched **For Our Sons and Daughters — A Queensland Government strategy to reduce domestic and family violence 2009–2014** and the first year's **Program of Action**. The goal of the strategy is to better protect victims, particularly women and children, by breaking the cycle of violence as early as possible. The strategy refers to the Cape York Welfare Reform Trial as one of the Queensland Government's achievements to date in this area and states that a high priority must be placed on reducing harm to women and children in Indigenous communities. This year's program for action states that the Department of Communities will 'develop Indigenous domestic and family violence strategies' in the four Welfare Reform communities in 2009–10.

APPENDIX 3:
Population of Queensland's Indigenous communities[401]

Table 1: Aboriginal community populations

Aboriginal community	Population
Aurukun	1043
Cherbourg	1128
Doomadgee	1082
Hope Vale	782
Injinoo	416
Kowanyama	1021
Lockhart River	551
Old Mapoon (near Weipa)	239
Mornington Island	1039
Napranum	841
New Mapoon	346
Palm Island	1984
Pormpuraaw	600
Umagico	229
Woorabinda	851
Wujal Wujal	326
Yarrabah	2371

Source: ABS 2006 Census (ABS 2007b).

Table 2: Torres Strait Islander community populations

Area*	Torres Strait Islander community	Population
Mainland	Bamaga	784
	Seisia	165
Top Western	Boigu	284
	Dauan	153
	Saibai	337
Near Western	Badu	818
	Mabuaig	251
	St Pauls (on Moa Island)	239
	Kubin (on Moa Island)	201
Central	Yam (Iama)	311
	Sue (Warraber)	247
	Coconut (Poruma)	166
	Yorke (Masig)	300
Eastern	Murray (Mer)	484
	Darnley (Erub)	319
	Stephen (Ugar)	76
Inner	Thursday Island (Waiben)	2546
	Horn Island	586
	Hammond	212
	Prince of Wales (Muralug)	103

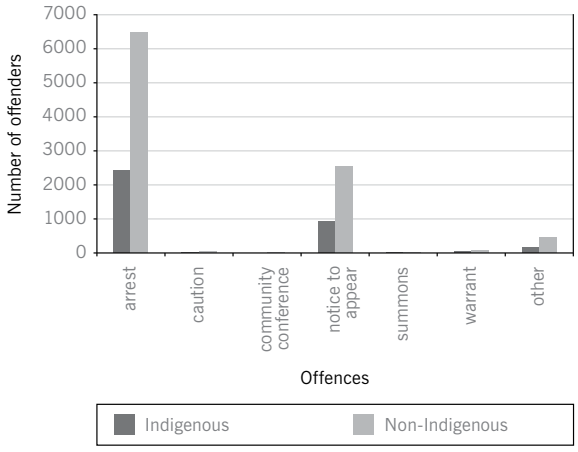
Source: ABS 2006 Census (ABS 2007b).

* Apart from the two Torres Strait Islander communities on the mainland, the Torres Strait Islands can be divided into five major clusters with the populations shown in the table.

401 These are the population totals for the whole community, including both Indigenous and non-Indigenous residents.

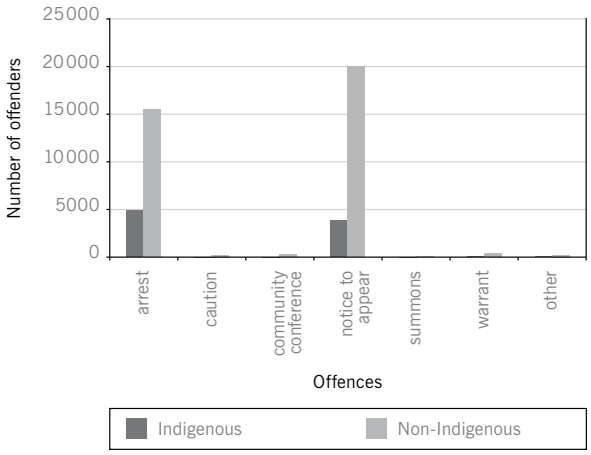
APPENDIX 4: Crime patterns

Figure 1: Police actions taken against Indigenous and non-Indigenous offenders (adults) for offences against the person statewide, 2007–08



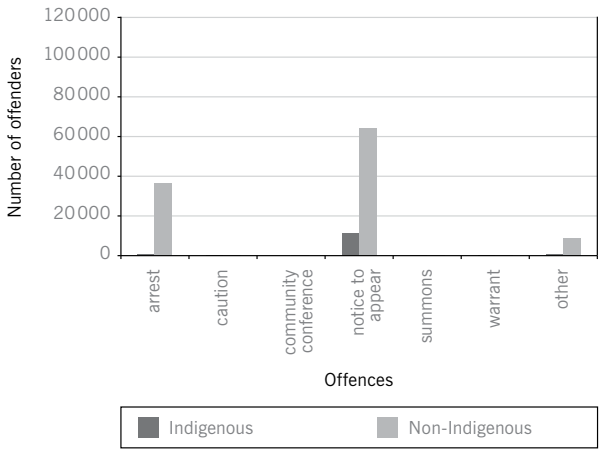
Source: QPS Statistical Review, 2007–08 (QPS 2008a).

Figure 2: Police actions taken against Indigenous and non-Indigenous offenders (adults) for offences against property statewide, 2007–08



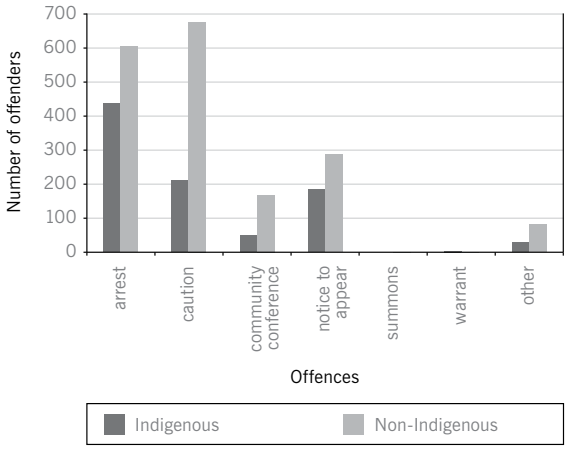
Source: QPS Statistical Review, 2007–08 (QPS 2008a).

Figure 3: Police actions taken against Indigenous and non-Indigenous offenders (adults) for 'other' offences statewide, 2007–08



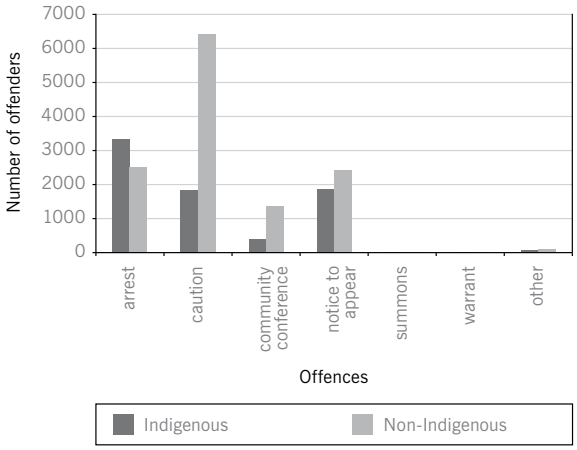
Source: QPS Statistical Review, 2007–08 (QPS 2008a).

Figure 4: Police actions taken against Indigenous and non-Indigenous offenders (juveniles) for offences against the person statewide, 2007–08



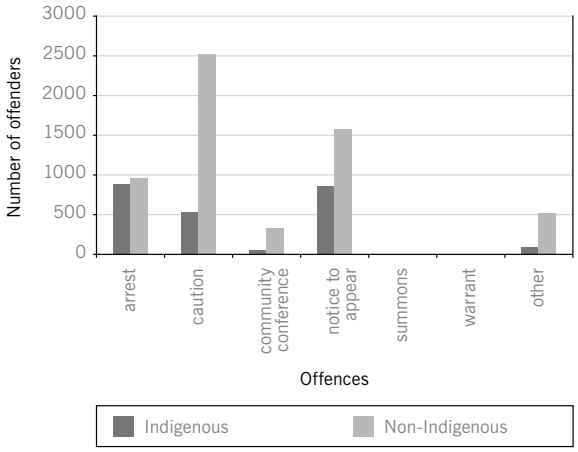
Source: QPS Statistical Review, 2007–08 (QPS 2008a).

Figure 5: Police actions taken against Indigenous and non-Indigenous offenders (juveniles) for offences against property statewide, 2007–08



Source: QPS Statistical Review, 2007–08 (QPS 2008a).

Figure 6: Police actions taken against Indigenous and non-Indigenous offenders (juveniles) for 'other' offences statewide, 2007–08



Source: QPS Statistical Review, 2007–08 (QPS 2008a).

Table 1: Annual rates for offences against the person per 1000 population for Queensland and each Indigenous community (1995–2006)

Offences against the person													
Year	Queensland	Aurukun	Cherbourg	Doomadgee	Kowanyama	Lockhart River	Mornington Island	NPA	Palm Island	Pormpuraaw	Torres Strait	Woorabinda	Yarrabah
1995	7.86	124.56	65.86	88.81	187.88	67.38	161.94	29.87	65.98	170.68	23.95	62.97	73.12
1996	8.40	178.23	45.35	100.12	144.93	54.70	109.04	23.32	62.08	241.30	30.48	61.26	87.99
1997	8.14	131.36	59.18	124.26	122.91	56.79	77.71	32.57	93.28	184.95	35.20	103.01	80.56
1998	8.58	112.28	100.23	158.60	167.06	38.67	88.09	47.98	83.53	77.89	41.56	126.63	65.20
1999	8.41	115.61	102.72	127.45	154.55	32.43	116.42	32.48	84.02	55.21	37.50	143.80	91.30
2000	8.41	185.60	95.67	109.54	260.34	36.04	141.95	35.45	64.39	64.39	28.07	79.30	99.00
2001	8.85	130.34	100.76	126.98	262.93	39.59	112.63	49.6	81.82	126.73	62.48	104.74	93.32
2002	8.95	72.90	71.03	65.10	144.33	114.67	130.82	31.79	95.12	114.29	33.34	111.36	90.27
2003	8.43	88.31	56.93	75.48	120.63	109.27	145.83	26.69	82.82	138.10	27.24	111.22	71.12
2004	8.46	184.83	52.70	84.57	91.15	67.73	176.85	34.02	74.85	145.8	25.10	174.24	77.32
2005	8.13	205.56	55.78	105.12	84.30	74.67	81.81	53.96	92.51	118.86	31.56	111.11	73.45
2006	8.14	125.32	78.46	53.37	123.87	136.69	111.00	44.63	116.65	160.32	33.31	124.75	86.88

Table 2: Annual rates for offences against property per 1000 population for Queensland and each Indigenous community (1995–2006)

Offences against property													
Year	Queensland	Aurukun	Cherbourg	Doomadgee	Kowanyama	Lockhart River	Mornington Island	NPA	Palm Island	Pormpuraaw	Torres Strait	Woorabinda	Yarrabah
1995	75.17	170.39	98.41	55.06	101.82	222.05	112.01	48.53	77.22	67.83	61.05	96.93	44.88
1996	78.81	314.59	84.76	104.72	125.60	200.56	90.43	64.65	121.24	108.70	57.72	170.27	67.09
1997	78.92	298.22	173.78	139.64	96.66	101.11	52.09	88.93	108.26	83.87	67.66	225.16	96.48
1998	79.34	146.2	266.01	110.17	87.62	69.33	106.54	80.65	154.03	50.53	120.57	223.46	64.72
1999	83.89	139.88	192.60	117.65	78.41	51.88	105.53	73.46	121.20	69.53	77.92	165.56	106.12
2000	87.42	111.36	184.51	67.14	60.34	50.19	94.10	79.65	100.91	38.23	71.53	219.54	74.73
2001	85.30	163.20	132.82	102.04	70.41	58.75	98.93	116.2	100.96	45.54	59.60	233.20	48.32
2002	75.28	108.92	116.99	71.61	49.67	165.26	68.38	45.47	92.59	61.9	58.19	258.72	78.94
2003	71.78	150.55	73.39	62.12	88.29	119.21	125.99	64.14	128.74	77.78	59.88	136.36	59.20
2004	65.15	207.50	127.31	135.99	79.54	112.88	64.81	67.59	111.86	74.48	60.95	180.74	53.69
2005	59.56	171.86	201.36	113.31	49.33	45.33	73.15	74.75	113.12	110.94	78.29	161.35	65.29
2006	57.09	174.43	118.49	87.78	65.10	89.21	161.72	67.61	88.00	111.11	54.77	267.33	63.66

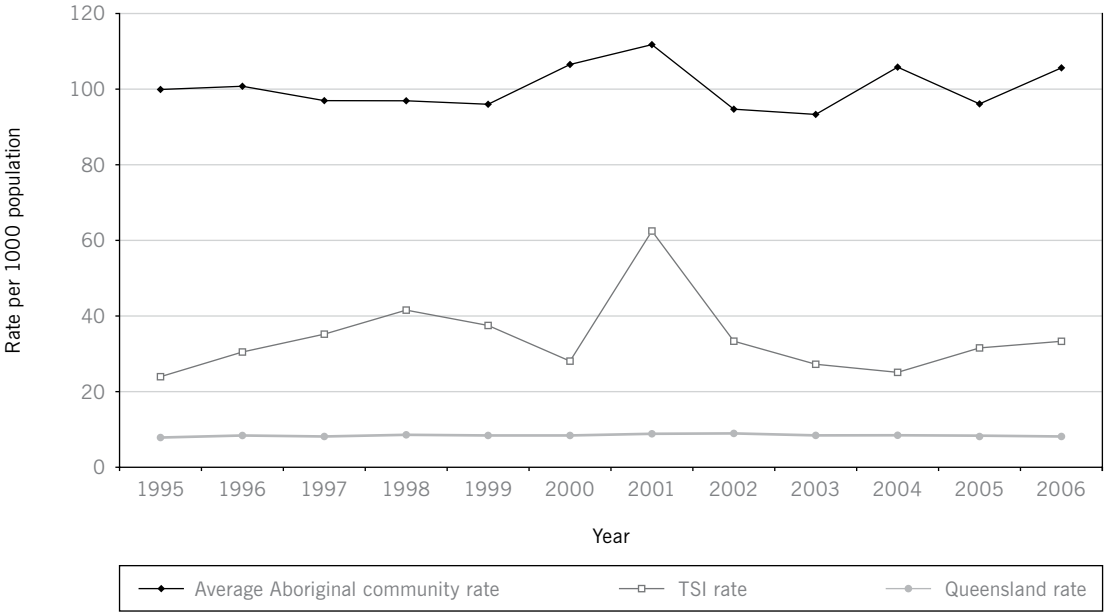
Table 3: Annual rates for 'other' offences per 1000 population for Queensland and each Indigenous community (1995–2006)

Other offences													
Year	Queensland	Aurukun	Cherbourg	Doomadgee	Kowanyama	Lockhart River	Mornington Island	NPA	Palm Island	Pormpuraaw	Torres Strait	Woorabinda	Yarrabah
1995	24.17	77.56	51.48	115.45	127.27	131.7	336.03	37.87	72.83	210.07	28.82	56.34	101.36
1996	25.78	175.84	37.92	147.30	100.24	130.43	274.82	28.62	52.86	243.48	72.30	49.55	114.24
1997	27.36	191.72	59.18	269.82	84.73	166.2	342.44	54.29	100.53	189.25	49.13	78.4	126.39
1998	28.21	111.11	107.01	308.72	165.89	234.67	288.59	85.76	92.71	149.47	57.30	112.66	152.92
1999	28.38	90.17	123.87	241.42	115.91	94.68	264.66	28.99	202.32	85.89	52.36	109.74	131.93
2000	30.26	172.10	187.55	186.10	267.04	66.92	229.67	42.74	144.64	80.48	45.62	123.79	179.44
2001	30.53	242.06	190.84	369.61	489.55	98.34	173.52	60.46	127.27	114.85	54.61	220.36	181.90
2002	32.22	246.14	133.01	317.06	528.58	408.09	309.22	82.12	107.32	166.67	63.85	332.96	208.46
2003	35.59	216.99	159.12	259.85	246.50	273.18	232.14	58.11	115.62	271.43	40.08	303.68	106.05
2004	36.82	372.28	218.34	238.16	230.56	266.93	317.59	62.07	88.31	464.34	49.24	388.53	152.92
2005	38.41	396.80	382.31	242.32	263.68	218.67	383.06	72.09	172.41	226.62	50.76	352.66	131.87
2006	40.21	419.14	489.19	177.67	275.77	237.41	466.03	97.22	244.91	320.63	49.22	428.71	127.74

Source: QPS crime report data, 2007.

Note to Tables 1–3: The AMP restrictions on alcohol commenced on the following dates: Aurukun in January 2003; Cherbourg in December 2004; Doomadgee in June 2003; Kowanyama in December 2003; Lockhart River in December 2003; Mornington Island in November 2003; NPA in January 2004; Pormpuraaw in December 2003; Woorabinda in October 2003; and Yarrabah in February 2004. The Palm Island AMP was not introduced until 2006. There is no AMP in the Torres Strait Islands.

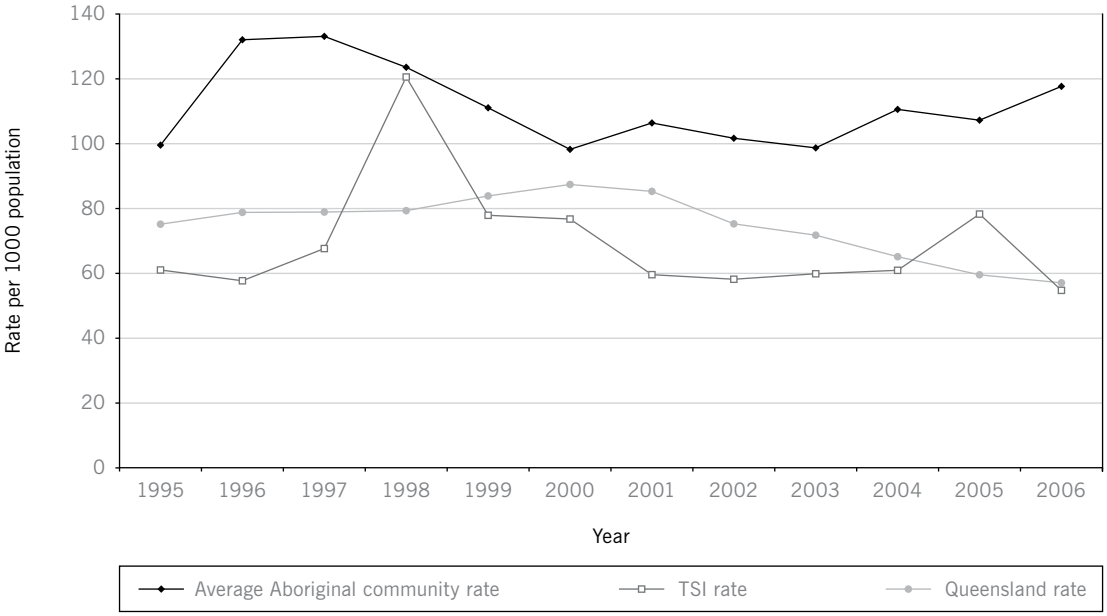
Figure 7: Offences against the person — average annual offence rates per 1000 population for Queensland's Aboriginal and Torres Strait Islands communities and across Queensland (1995–2006)



Source: QPS crime report data, 2007.

See the notes to Figure 4.1 in Chapter 4 for an explanation of which communities are included in the data shown in this figure.

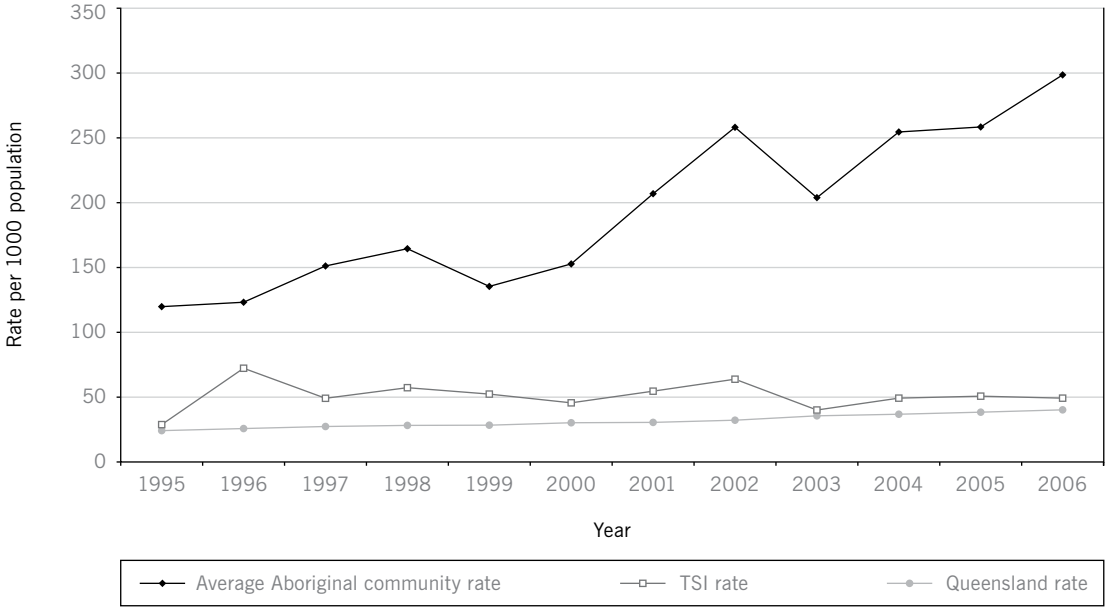
Figure 8: Offences against property — average annual offence rates per 1000 population for Queensland's Aboriginal and Torres Strait Islands communities and across Queensland (1995–2006)



Source: QPS crime report data, 2007.

See the notes to Figure 4.1 in Chapter 4 for an explanation of which communities are included in the data shown in this figure.

Figure 9: 'Other' offences — average annual offence rates per 1000 population for Queensland's Aboriginal and Torres Strait Islands communities and across Queensland (1995–2006)



Source: QPS crime report data, 2007.

See the notes to Figure 4.1 in Chapter 4 for an explanation of which communities are included in the data shown in this figure.

Figures 7, 8 and 9 show that:

In terms of offences against the person:

- Over time, there has been a marked and consistently higher rate of offences against the person in Aboriginal communities (almost 14 times higher than the state rate, on average) than in the Torres Strait Islands (just over four times the state rate, on average).
- There was a notable peak in the average rates of offences against the person in 2001 in both the Aboriginal and Torres Strait Islands, which was not reflected in the state rate. The rate for Aboriginal communities also shows a smaller peak in 2004. This variability probably arises from the relatively small numbers of offences in Indigenous communities when compared with the rest of the state.

In terms of property offending:

- As with offences against the person, over time there has been a marked and consistently higher rate of property offences in the Aboriginal communities than across the state. The same pattern is not reflected in the average rates for the Torres Strait Islands which, over time, fluctuate both above and below the state average.
- The average rate of property offending in Aboriginal communities overall is 1.7 times the statewide average, whereas the rate for the Torres Strait Islands is roughly the same as the state rate (at 0.93 times the state average).

In terms of 'other' offences:

- Over time, there has been a marked increase in 'other' offences in Aboriginal communities, especially between 1999 and 2002 and again between mid 2003 and 2006; these increases are not reflected in either the Torres Strait Island or state rates shown in the figure.[402]
- Overall, there is a higher average rate of 'other' offences in Aboriginal communities (8.7 times higher than the state rate) than in the Torres Strait Islands (1.7 times the state rate).

402 As we stated in Chapter 4, although it may not be readily apparent from Figure 4.5 (because of differences of scale and the fact that the Queensland-wide increase is not as dramatic as it has been in Queensland's Aboriginal communities), it should be noted that the statewide rates of 'other' offences have showed steady growth over time. These increases in 'other' offences across Queensland are driven by good order offences but also by an increase in drug and traffic offences (see QPS 2004, 2005a, 2006a, 2007a, 2008a).

Table 4: Absolute change from the previous year in the rate per 1000 population of all 'other', good order and liquor offences 2002 to 2006

		Queensland	Aurukun	Cherbourg	Doomadgee	Kowanyama	Lockhart River	Mornington Island	NPA	Palm Island	Pormpuraaw	Torres Strait	Woorabinda	Yarrabah
2002 to 2003	**All 'other'**	**3.37**	**-29.15**	**26.11**	**-57.21**	**-282.08**	**-134.91**	**-77.08**	**-24.01**	**8.30**	**104.76**	**-23.77**	**-29.28**	**-102.41**
	Good order	0.46	-36.85	16.96	4.69	-287.02	-39.43	-91.12	-6.31	7.56	57.14	-1.45	-0.25	-49.44
	Liquor	0.24	33.38	—	5.27	42.39	-3.74	-49.49	-0.46	0.79	17.98	0.08	—	-0.01
2003 to 2004	**All 'other'**	**1.23**	**155.29**	**59.22**	**-21.69**	**-15.94**	**-6.25**	**85.45**	**3.96**	**-27.31**	**192.91**	**9.16**	**84.85**	**46.87**
	Good order	0.51	17.96	25.86	-50.04	-40.48	-0.24	38.55	0.81	-9.67	26.77	5.60	-12.09	4.51
	Liquor	0.17	61.88	—	-3.03	50.25	45.20	66.74	3.74	0.86	66.53	0.13	89.23	10.31
2004 to 2005	**All 'other'**	**1.59**	**24.52**	**163.97**	**4.16**	**33.12**	**-48.26**	**65.47**	**10.02**	**84.10**	**-237.72**	**1.52**	**-35.87**	**-21.05**
	Good order	0.12	64.74	23.19	4.61	46.74	-2.53	19.31	3.75	21.87	-74.48	-6.29	9.07	-3.44
	Liquor	0.14	-20.52	16.89	-2.50	-5.93	-29.07	-11.16	2.03	1.68	-69.73	-0.71	-36.11	-2.15
2005 to 2006	**All 'other'**	**1.80**	**22.34**	**106.88**	**-64.65**	**12.09**	**18.74**	**82.97**	**25.13**	**72.50**	**94.01**	**-1.54**	**76.05**	**-4.13**
	Good order	1.44	23.72	45.13	-12.96	13.26	31.31	55.78	11.04	59.40	81.04	3.48	87.19	8.21
	Liquor	0.39	-23.26	6.14	9.77	-21.84	2.85	7.1	-1.77	10.75	6.38	1.33	9.79	-3.00

Source: QPS crime report data, 2007.

APPENDIX 5:
QPS sworn officer numbers

Police officer numbers in Queensland Indigenous communities

Location (QPS region and division)	Allocated number of QPS officer positions before extra allocations announced June 2007	Proposed future strength with extra allocations announced June 2007	Allocated number of QPS officers as at 9 July 2009	Actual number of QPS officers as at 9 July 2009
Far Northern Region				
Aurukun	6	10	10	7
Bamaga	6	10	6*	5
Hope Vale	2	4	4	4
Horn Island	2	2	2	2
Kowanyama	8	10	9†	7
Lockhart River	2	4	4	2
Pormpuraaw	2	4	4	3
Thursday Island	17	17	17	14
Yarrabah	8	10	10	8
Wujal Wujal	0	2	2	2
Northern Region				
Mornington Island	6	10	8	10
Palm Island	16	16	16	16
Doomadgee	9	10	10	9
Central Region				
Woorabinda	5	10	10	10
North Coast Region				
Cherbourg	4	7	7	6
Total	**93**	**126**	**119**	**105**

* The QPS indicates that the allocation of officers cannot be increased as announced until residential infrastructure for 4 positions is in place.

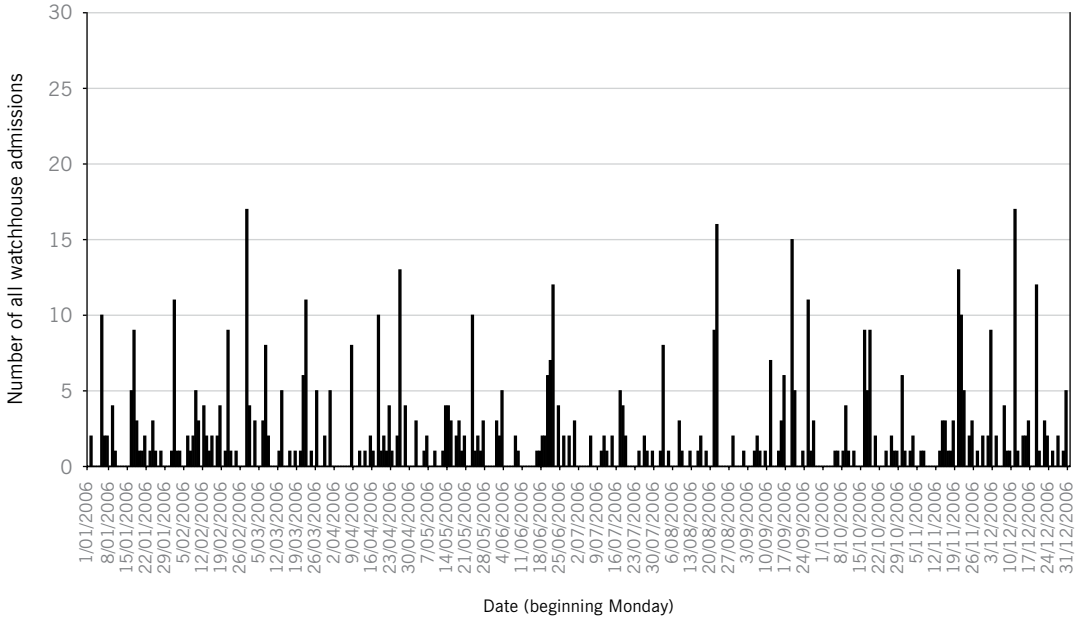
† The QPS indicates that the allocation of officers cannot be increased as announced until residential infrastructure for 1 position is in place.

It should be noted that police from Weipa station (12 allocated positions) provide policing services to the nearby communities of Napranum and Mapoon. Cherbourg police are assisted by police at nearby Murgon station (22 allocated positions).

APPENDIX 6:
Watch-house data

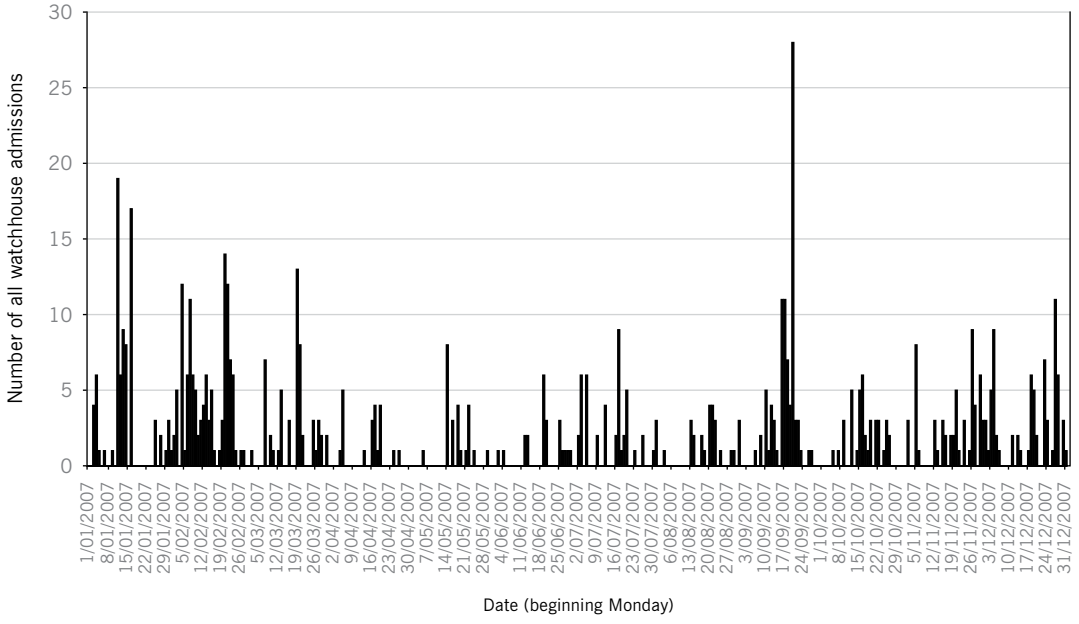
Further watch-house data

Figure 1: Daily admissions to Aurukun watch-house, 2006



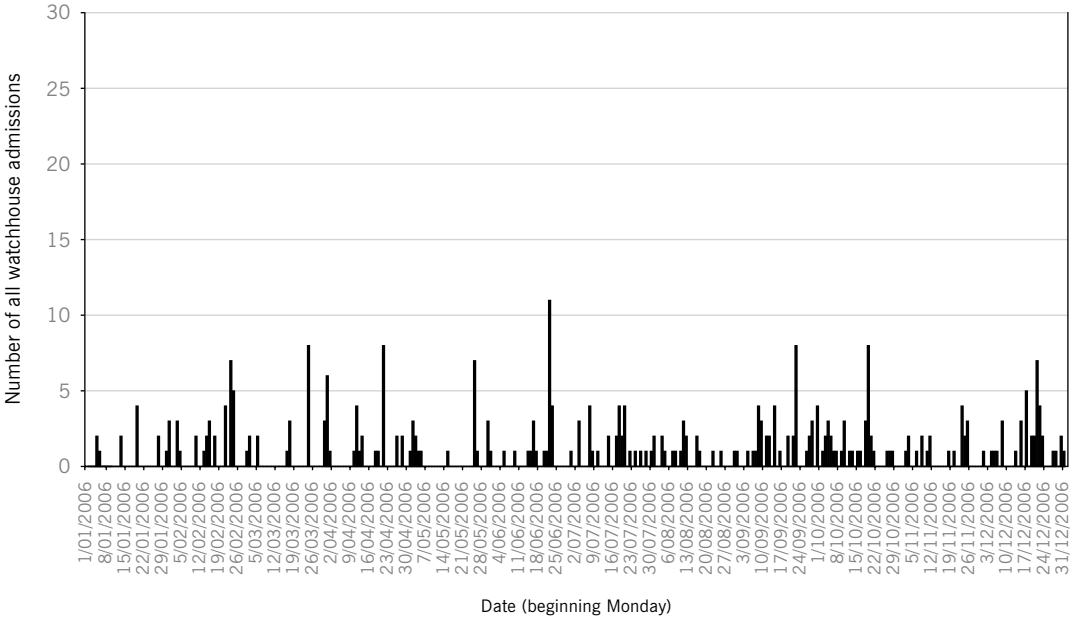
Source: QPS watch-house custody registers.

Figure 2: Daily admissions to Aurukun watch-house, 2007



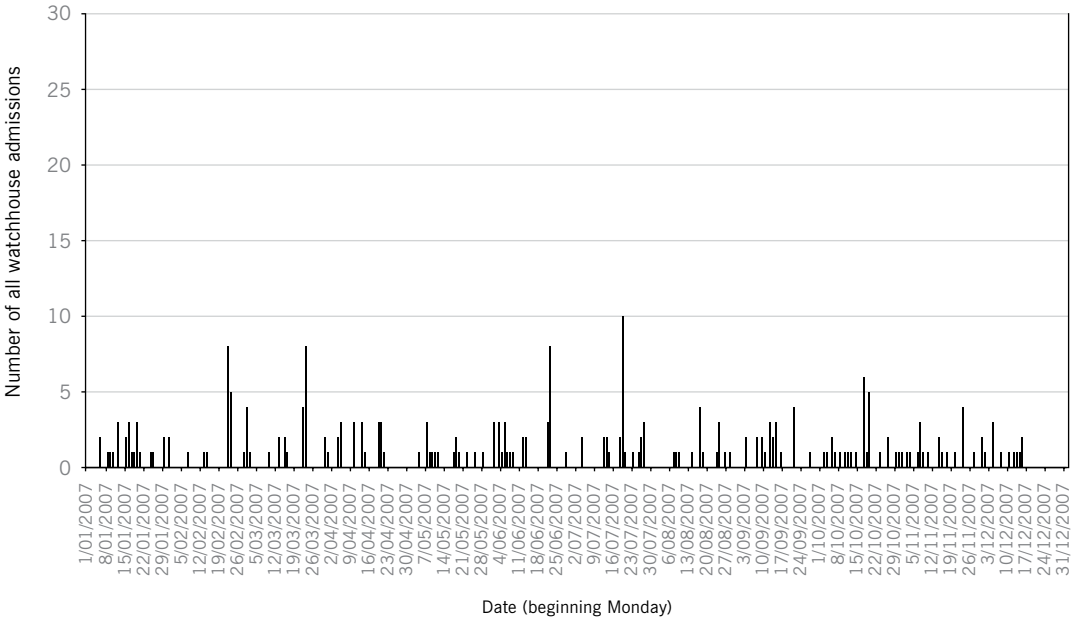
Source: QPS watch-house custody registers.

Figure 3: Daily admissions to Kowanyama watch-house, 2006



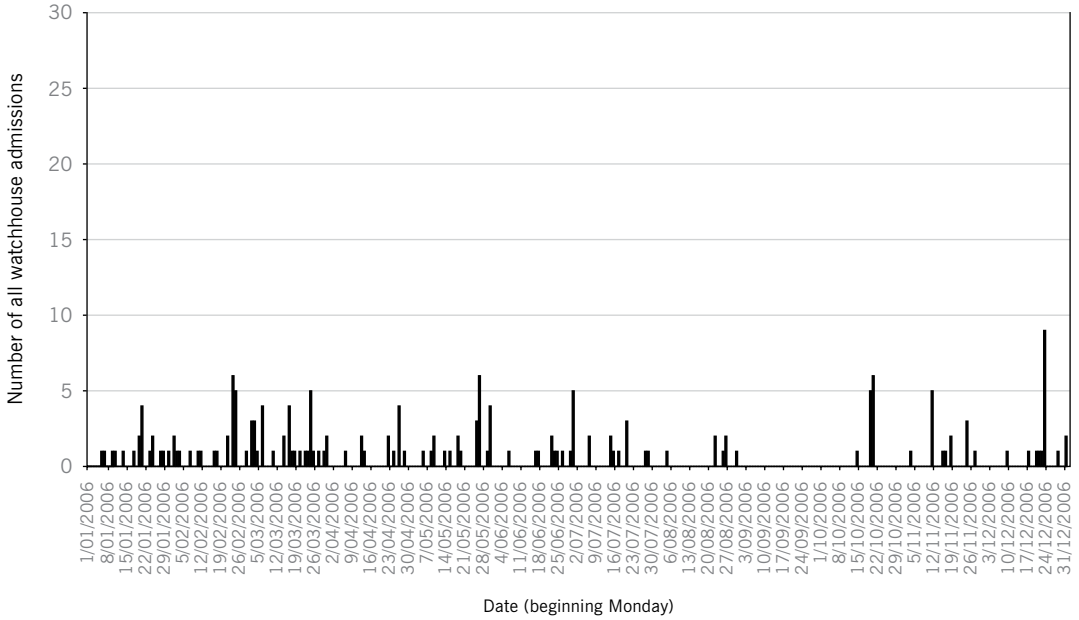
Source: QPS watch-house custody registers.

Figure 4: Daily admissions to Kowanyama watch-house, 2007



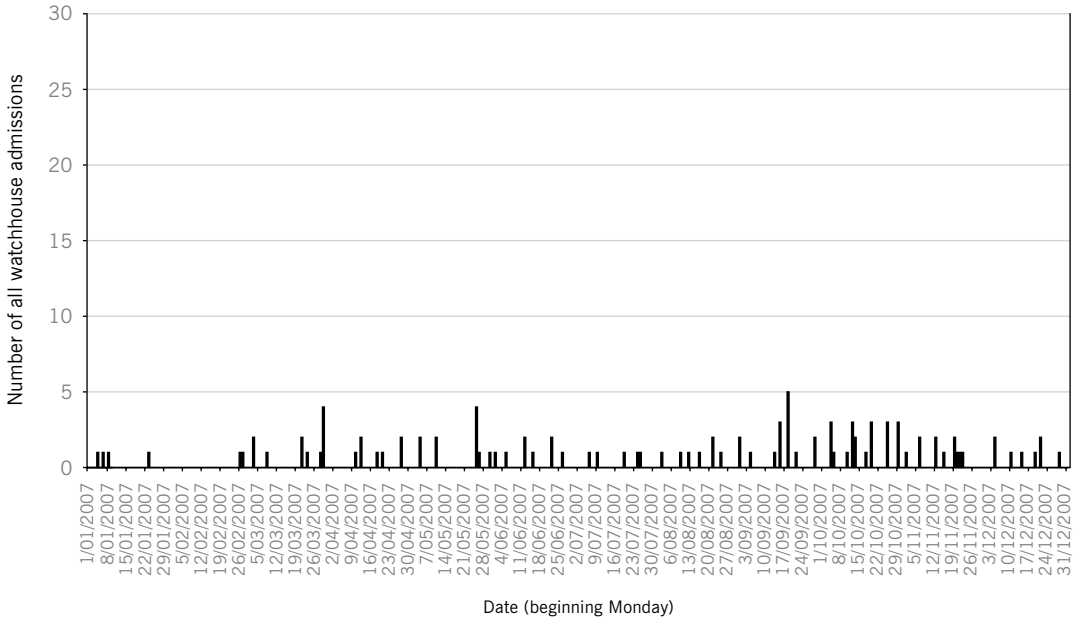
Source: QPS watch-house custody registers.

Figure 5: Daily admissions to Pormpuraaw watch-house, 2006



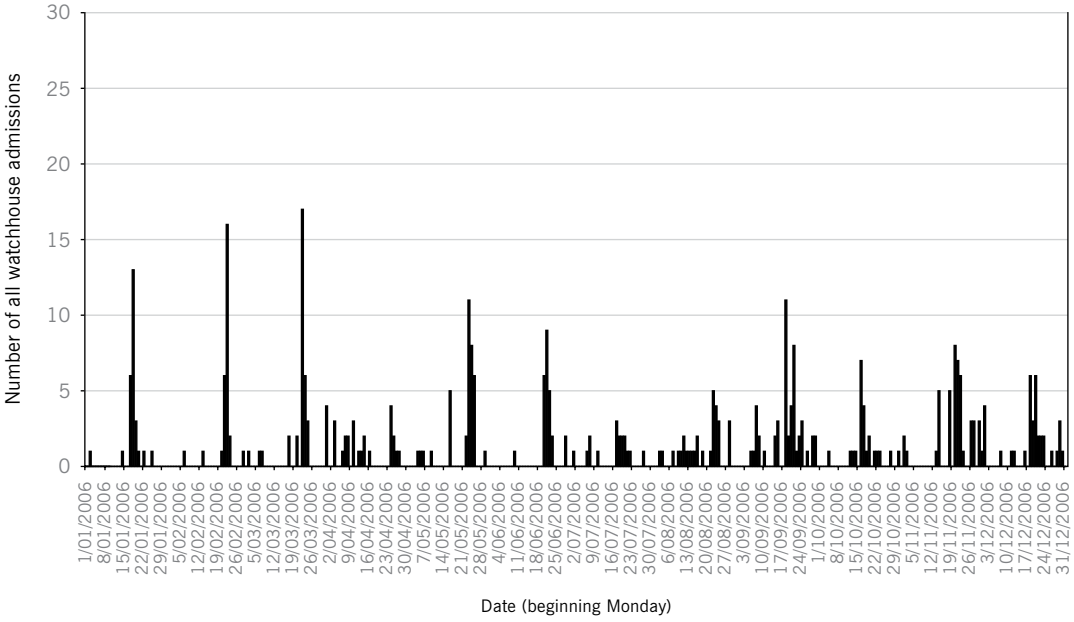
Source: QPS watch-house custody registers.

Figure 6: Daily admissions to Pormpuraaw watch house, 2007



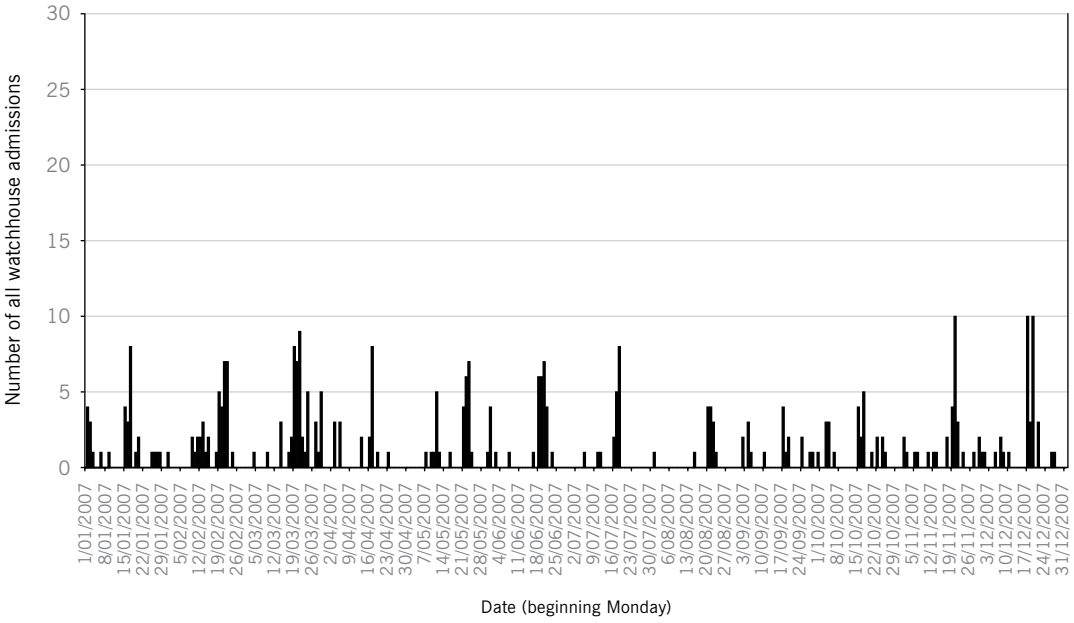
Source: QPS watch-house custody registers.

Figure 7: Daily admissions to Weipa watch-house, 2006



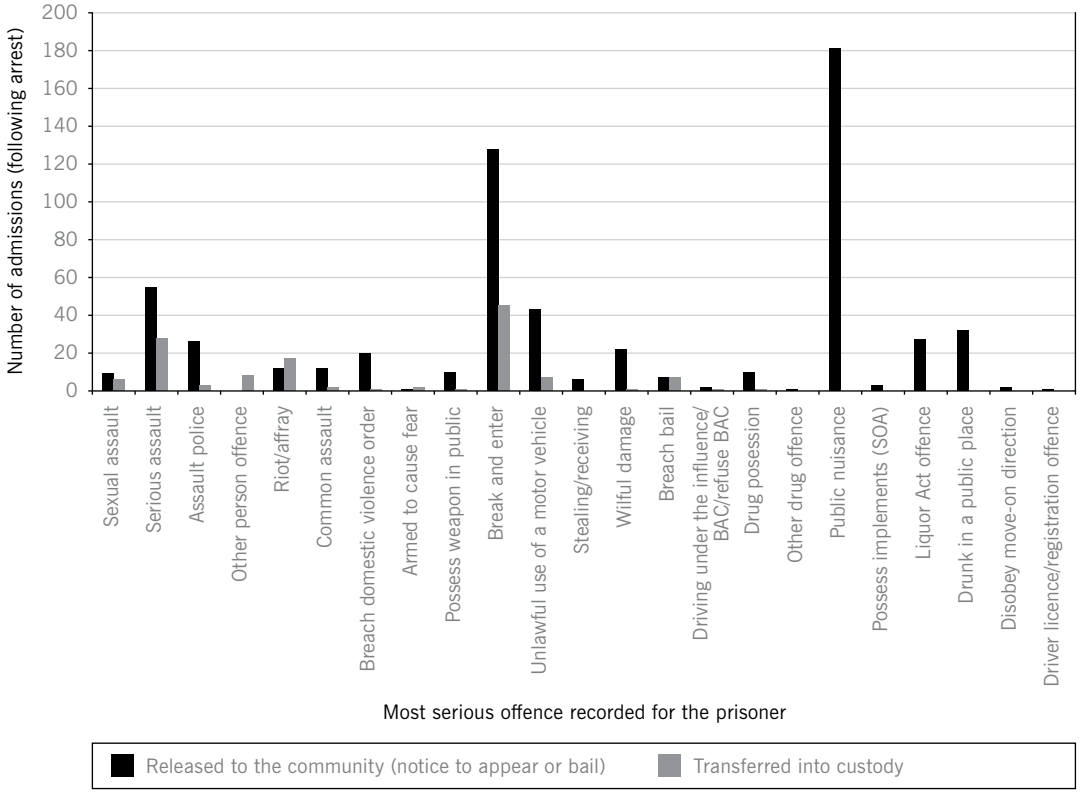
Source: QPS watch-house custody registers.

Figure 8: Daily admissions to Weipa watch-house, 2007



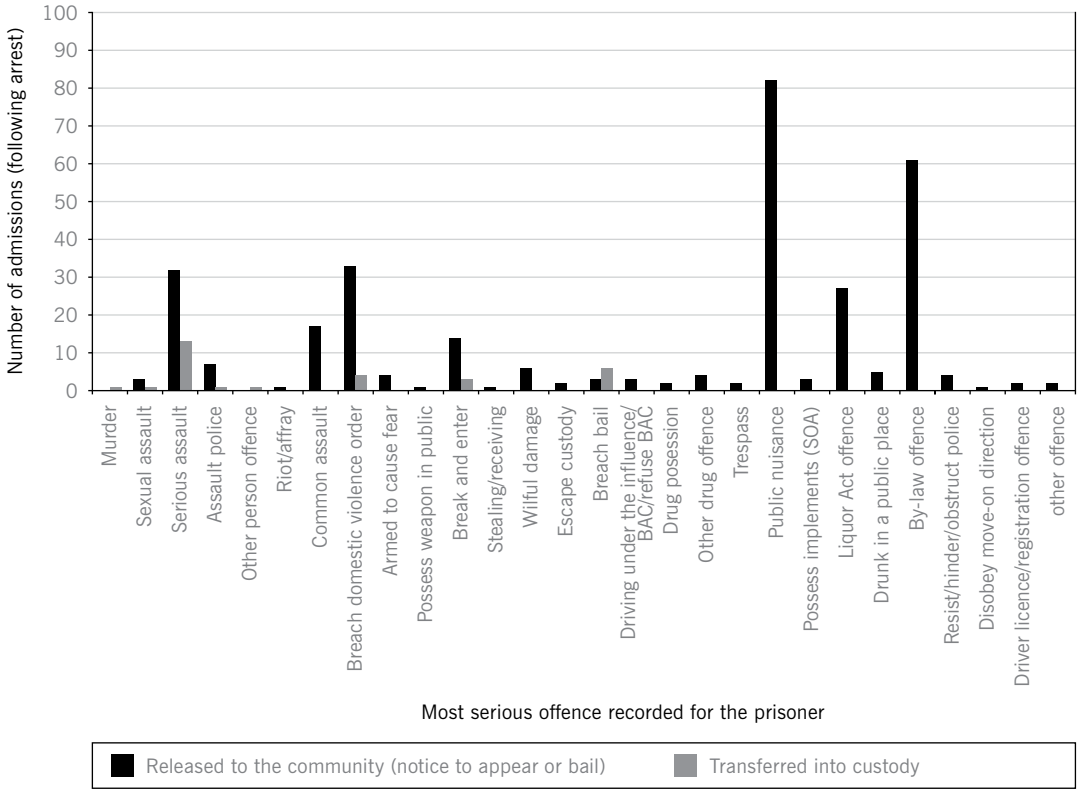
Source: QPS watch-house custody registers.

Figure 9: Reason for admission and method of release, Aurukun watch-house, 2006 and 2007



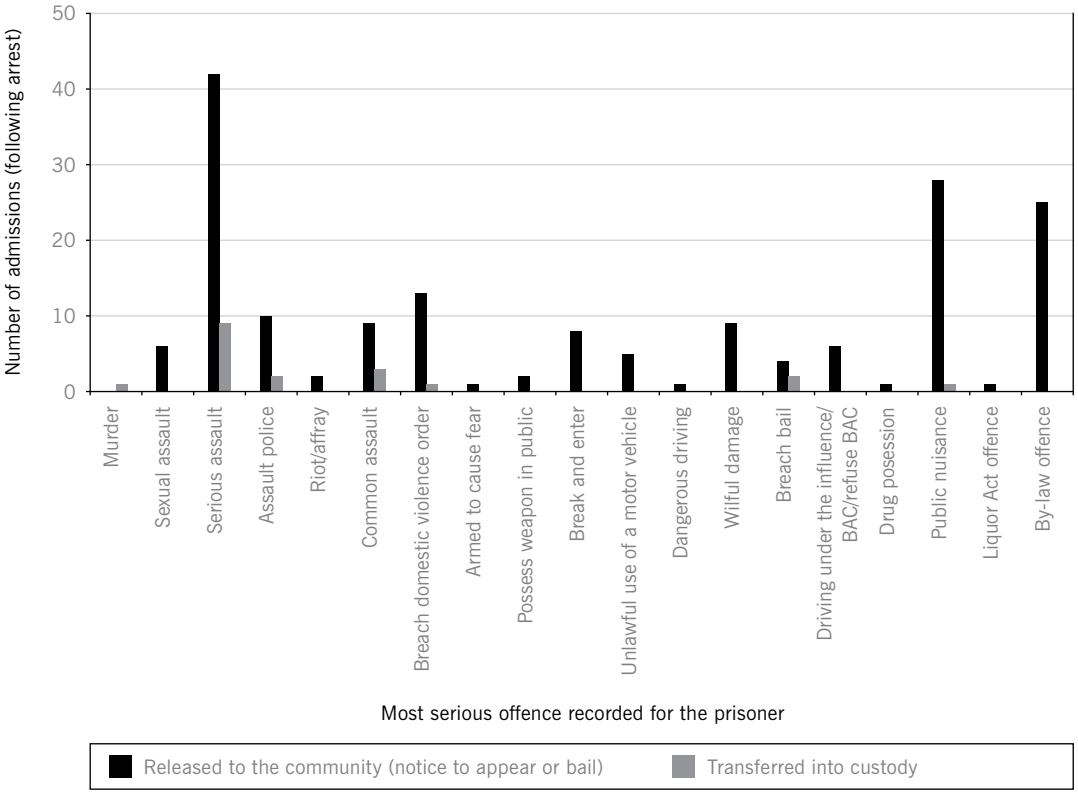
Source: QPS watch-house custody registers.

Figure 10: Reason for admission and method of release, Kowanyama watch-house, 2006 and 2007



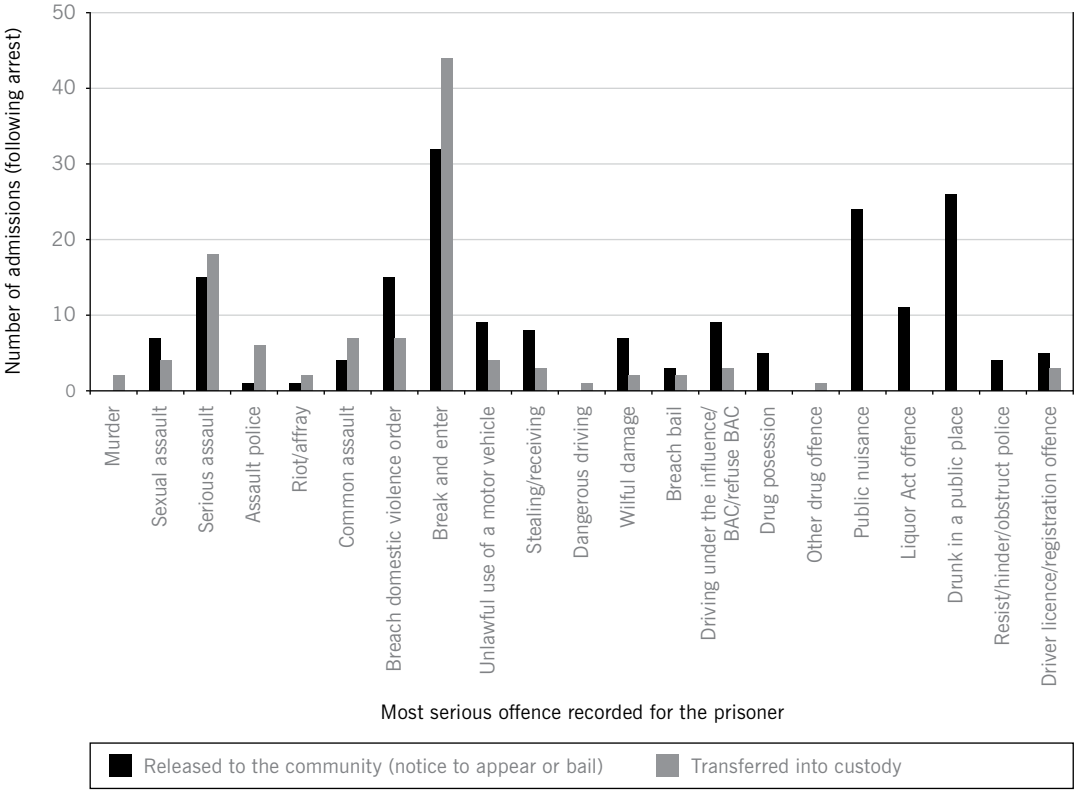
Source: QPS watch-house custody registers.

Figure 11: Reason for admission and method of release, Pormpuraaw watch-house, 2006 and 2007



Source: QPS watch-house custody registers.

Figure 12: Reason for admission and method of release, Weipa watch-house, 2006 and 2007



Source: QPS watch-house custody registers.

Note to Figures 9–12: Only admissions following arrest in the community (with or without warrant) are included in these graphs, as in these cases decisions to give bail or remand in custody are made by the police (though the police may seek advice from a magistrate about bail and remand decisions). That is, admissions from custody elsewhere (prison, youth detention, another watch-house) are not included, as these prisoners are typically arriving for a court appearance and so the court, not police, will make the decision to release or continue to detain the prisoner. Some other admissions are also not included in the graphs, in those instances where police do not have any discretion about the method of release of a person from the watch-house and are unable to release the prisoner to the community. These are (a) where the most serious offence was a breach of probation or parole (i.e. the offender was arrested on a warrant after breach of their probation order or suspension or cancellation of their parole), as all such offenders must be returned to prison by police (s. 206 of the Corrective Services Act 2006); and (b) where prisoners were released from the watch-house for a court appearance and so the court then determines if they are to continue to be detained or be released.[403]

403 Police are not required to note in the custody register when a prisoner is going to court but they sometimes did so. When we recorded the method of release of watch-house prisoners we used the category 'Released to community (other)'. Where the register did not show bail information, the notation 'notice to appear' or a transfer out of the watch-house to custody elsewhere, it is likely that the prisoner had been released directly to a court appearance.

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