

# **Evaluation of the Queensland Aboriginal and Torres Strait Islander Justice Agreement: Queensland Government Response**

November 2006

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# Justice Agreement Evaluation Government Response

## Foreword

The interim evaluation of the Queensland Aboriginal and Torres Strait Islander Justice Agreement provides clear evidence that there is still much to be done to address the rate of overrepresentation of Indigenous people as both offenders and as victims of crime.

Queensland's Aboriginal and Torres Strait Islander people make up around 3.5% of the State's population. They continue to make up 25% of adult prisoners and around 60% of juveniles in detention.

This response to the evaluation confirms the Queensland Government's commitment to take action to redress this imbalance in partnership with Aboriginal and Torres Strait Islander communities.

The response will complement other significant whole-of-government initiatives aimed at improving the social, health and economic outcomes for Indigenous Queenslanders.

These initiatives seek to foster more positive outcomes through the Indigenous priorities of 'strong families, strong cultures, safe places, healthy living and skilled and prosperous people and communities'.

Recognising that criminal justice agencies alone can have a limited impact on the multi-faceted nature of Indigenous offending, the response emphasises coordination across government and strong partnerships between government and Indigenous communities.

The response commits the Government to a range of initiatives that will be monitored and reported under the *Partnerships Queensland* framework. These will be the subject of a further evaluation in 2011.



Peter Beattie MP  
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and Youth



Hon Kerry Shine MP  
Attorney-General and Minister for  
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Premier in Western Queensland

# Background

## Genesis of the Queensland Aboriginal and Torres Strait Islander Justice Agreement (Justice Agreement)

### Royal Commission into Aboriginal Deaths in Custody

The Royal Commission into Aboriginal Deaths in Custody (the Royal Commission) was established in 1987 in response to a growing public concern about Aboriginal and Torres Strait Islander people dying in the custody of police, prison or juvenile detention institutions.

The Royal Commission National Report, comprising five volumes and 339 recommendations, was released in 1991. The report represents a comprehensive survey of Indigenous law and justice issues and the underlying causes which bring Indigenous people into excessive contact with the justice system.

While the Royal Commission commenced as an examination of deaths in custody, during its course it evolved into a landmark examination of Indigenous over-representation and disadvantage. The Royal Commission found that 'Aboriginal people do not die at a greater rate than non-Aboriginal people in custody. However, what is overwhelmingly different is the rate at which Aboriginal people come into custody, compared with the rate of the general community' (p.6, vol.1) and that Indigenous over-representation needed to be tackled not only at the level of the criminal justice system itself, but also by addressing the more fundamental factors which bring Aboriginal people into conflict with the criminal justice system in the first place. The Royal Commission considered these 'more fundamental factors' to include 'the disadvantaged and unequal position in which Aboriginal people find themselves in the society—socially, economically and culturally' (p.15, vol.1). Recommendations followed on a variety of fronts including health, housing, education, economic opportunity, self determination and reconciliation.

Of the 339 recommendations made by the Royal Commission, 290 were relevant to Queensland. In addition to recommendations specific to the deaths in custody, the recommendations targeted: (1) criminal justice system responses to Indigenous over representation; and (2) the fundamental factors which bring Aboriginal people into contact with the criminal justice system.

### National Ministerial Summit

In 1997, a National Ministerial Summit was held on Aboriginal deaths in custody. The Queensland Government and Aboriginal and Torres Strait Islander community representatives attending the Summit resolved that the Ministers work in partnership to address the issue of over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system.

The Justice Agreement forms part of the Queensland Government response to that resolution. It is based on nine principles that are to guide all justice policies, programs and services in Queensland.

## **Principles of the Justice Agreement**

1. Indigenous participation
2. Recognition of culture
3. Acknowledgment of the impact of past policies, practices and philosophies
4. Respect for Indigenous cultural values
5. Equality before the law
6. Improved coordination within government and between government and community organisations
7. Empowerment and self-determination
8. The addressing of underlying social, cultural and economic issues
9. A continued commitment to implementing the recommendations of the Royal Commission into Aboriginal Deaths in Custody and the Aboriginal and Torres Strait Islander Women's Task Force on Violence.

## **The Justice Agreement**

The Justice Agreement was signed on 19 December 2000. Signatories to the Agreement were the (former) Aboriginal and Torres Strait Islander Advisory Board, representing Aboriginal and Torres Strait Islander communities of Queensland and the following Ministers representing the Government:

- the Premier
- the Minister for Aboriginal and Torres Strait Islander Policy and Minister for Women's Policy
- the Attorney-General and Minister for Justice
- the Minister for Police and Corrective Services
- the Minister for Families Youth and Community Care and Disability Services (as formerly commissioned).

The aim of the Justice Agreement is to reduce the rate of Aboriginal and Torres Strait Islander people coming into contact with the Queensland criminal justice system to at least the same rate as non-Indigenous Queenslanders. The aim of the Justice Agreement is to achieve a 50% reduction in the rate of Aboriginal and Torres Strait Islander peoples incarcerated in the Queensland criminal justice system by the year 2011.

The Justice Agreement is an integral part of the 'Towards a Queensland Government and Aboriginal and Torres Strait Islander Ten Year Partnership' process.

The overall theme of the Justice Agreement is the concept of building capacities. The Justice Agreement commits its signatories to follow a five-part strategy that focuses on building: community capacities; individual capacities; a more culturally sensitive criminal justice system; a stronger role for communities in justice administration; and integrated and coordinated justice related services.

The Justice Agreement provides for an action plan to be developed and updated annually.

## Indigenous policy in Queensland

The Justice Agreement and Indigenous over-representation in the criminal justice system cannot be viewed in isolation. The Queensland Government's approach to Indigenous policy recognises that partnerships, collaboration and targeted responses are necessary to improve Indigenous disadvantage generally and Indigenous over-representation in the criminal justice system in particular. Indigenous policy in Queensland targets key factors that contribute to Indigenous over-representation, including high levels of poverty and associated disadvantage, such as high unemployment, poor health, poor educational outcomes and poor housing.

The Ten Year Partnership represents a commitment by the Queensland Government to work with Aboriginal and Torres Strait Islander people to improve standards of living over a 10-year period. It provides a long-term strategic policy, planning and performance management framework for working with Aboriginal and Torres Strait Islander peoples. The Ten Year Partnership was developed in 2000 and lays the foundation for achieving better outcomes for Aboriginal and Torres Strait Islander Queenslanders through improving coordination and planning at the central level, and establishing negotiation mechanisms at the regional and local levels. This has given Aboriginal and Torres Strait Islander people direct input into Government programs and services.

In July 2001, Tony Fitzgerald QC led the Cape York Justice Study that examined the incidence of violence and alcohol abuse in Aboriginal communities in Cape York. The Queensland Government responded by implementing the Meeting Challenges, Making Choices (MCMC) strategy in April 2002. MCMC aims to foster community capacity and locally-based solutions in an attempt to address the issues of alcohol, substance abuse and violence and extends beyond Cape York to 19 Aboriginal and Torres Strait Islander communities<sup>1</sup>.

A 2005<sup>2</sup> evaluation of the MCMC strategy found that significant progress had been made and that positive trends had begun to emerge in relation to some outcomes in some communities, including improvements in perceptions about quality of life, favourable attitudes to alcohol restrictions, the development of improved community governance practices, the establishment of a statutory role for Community Justice Groups, and the establishment of the Government Champions program and Negotiation Tables.

In September 2005, the Queensland Government launched *Partnerships Queensland: Future Directions Framework for Aboriginal and Torres Strait Islander Policy* in Queensland 2005–10, a new policy that aims to cut through red tape and focus resources on the areas where they are needed most in Aboriginal and Torres Strait Islander communities in Queensland.

Partnerships Queensland (PQ) draws together the key themes of existing Queensland Government policies and programs for Aboriginal and Torres Strait Islander Queenslanders through collaboration and partnership at the local, regional and State levels. PQ has four key goals—strong families/strong cultures, safe places, healthy living, and skilled and prosperous people and communities. The PQ performance monitoring framework will track progress against these key goals and priority action areas.

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<sup>1</sup> MCMC communities include: Aurukun Shire, Bamaga, Cherbourg, Doomadgee, Hope Vale, Injinoo, Kowanyama, Lockhart River, Mapoon, Mornington Shire, Napranum, New Mapoon, Palm Island, Pormpuraaw, Seisia, Umagico, Woorabinda, Wujal Wujal and Yarrabah.

<sup>2</sup> MCMC Evaluation Report No. 2: August 2005

The Crime and Violence Response Plan is being developed under this performance monitoring framework, and is aligned with the key action areas identified by Professor Cunneen in his evaluation of the Justice Agreement. The Crime and Violence Response Plan seeks to implement 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 Crime and Violence Response Plan will also become the annual action plan under the Justice Agreement.

## The Justice Agreement Evaluation

The first independent Evaluation Report of the Justice Agreement was commissioned from Professor Chris Cunneen in March 2005.

The Evaluation Report examines the following issues:

- What has been achieved in the four years 2001–04?
- What has been the relative impact of the Government's actions and other factors?
- What actions by the Government have had the most effect?
- What additional, alternative or existing strategies will aid in achieving the desired outcomes?

The Evaluation Report contained 15 recommendations together with a number of findings dispersed throughout the body of the report. These recommendations, along with the Government response to each, are in Appendix One.

Key findings of the Evaluation Report include:

- By national standards, Queensland has relatively low Indigenous and non-Indigenous rates of detention. However, the Indigenous detention rate and level of over-representation was higher in 2003–04 than in 2000–01 when the Justice Agreement was signed.
- There has been a reduction in the number of Indigenous young people sentenced to detention.
- By national standards, Queensland has a rate of Indigenous over-representation in adult prison which is among the lowest in the nation, and Indigenous admissions to prison has been declining since 1999–2000. A small spike in 2004–05 will need further investigation.

In explaining these findings, the Evaluation Report noted that:

- Indigenous over-representation is a multi-faceted issue and effective responses will need to take into consideration the historical and structural conditions of colonisation, social and economic marginalisation, and systemic racism.
- The Government has implemented a number of strategies that target Indigenous over-representation.
- Some existing strategies that promote equitable treatment of Indigenous offenders are important even though they may have little impact on Indigenous over-representation.
- Innovative programs that are culturally appropriate are improving justice outcomes for Indigenous people.

- Short and long-term effects will result from diverting young people from the criminal justice system.
- Collaboration between the Government and Indigenous communities is vital to ensure improved justice outcomes for Indigenous people.
- The Government must maintain momentum if it is to achieve the primary goals of the Justice Agreement.

## The Government Response to the Justice Agreement Evaluation

Many of the issues raised in the recommendations and the findings are interrelated, reflecting the multi-faceted nature of Indigenous offending. Consequently it is important that we do not conceptualise responses to Indigenous offending in isolation. Rather, criminal justice responses must form part of a wider policy response that recognises the social, economic and historical factors underpinning Indigenous disadvantage. Because of these interconnecting issues, the Government's response to the Evaluation Report must be read with actions taken under *Partnerships Queensland* and *Meeting Challenges Making Choices* initiatives.

The Government's response provides advice on government initiatives and strategies that target the Indigenous justice issues identified in the Evaluation Report. These are grouped around the following key themes:

- understanding Indigenous offending and effective responses to Indigenous offending
- crime prevention
- early intervention
- Indigenous victims of crime
- diversion from arrest and custody
- working with offenders
- a responsive justice system
- engaging with Indigenous communities.

## Understanding Indigenous offending and effective responses to Indigenous offending

The Evaluation Report notes that our understanding of key factors associated with Indigenous offending and victimisation, and how the system can effectively respond to these issues, is underdeveloped. Consequently, Professor Cunneen recommends the development of an Indigenous Criminal Justice Research Agenda (ICJRA) to address this deficit and drive policy initiatives. The Government supports this recommendation.

The ICJRA will be coordinated by Criminal Justice Research (CJR) in the Department of the Premier and Cabinet. CJR is best placed to implement this agenda. Its core functions are to provide accurate, timely and policy relevant information to government to assist in the planning and coordination of the criminal justice system, and promote collaboration and information sharing amongst criminal justice agencies.

The Evaluation Report identifies a number of research projects that should be examined as part of the ICJRA. These include analysis of:

- Indigenous victimisation data
- breach rates and prosecutions for domestic and family violence orders
- the reasons for high levels of remand for Indigenous young people
- the reasons behind sentencing disparities between Indigenous and non-Indigenous offenders (both juvenile and adult).

In progressing the ICJRA, CJR will work collaboratively with the Department of Aboriginal and Torres Strait Islander Policy, Department of Communities, Queensland Police Service, Department of Corrective Services and the Department of Justice and Attorney-General to prioritise the proposed research topics.

Relevant recommendations: 7 in Appendix 1

## Crime prevention

Crime prevention is fundamental to any strategy that aims to reduce contact with the criminal justice system. Crime prevention initiatives can reduce opportunities for crime, focus on addressing the underlying causes of crime or truncate a criminal career and work to reduce the likelihood of reoffending.

The Department of Communities is currently developing its Indigenous Strategy. As part of this process, the Department is reviewing its programs to ensure that existing program responses to Indigenous juvenile crime are evidence-based. Additional programs to support young offenders will be age, gender and offence specific and developed in partnership with those community agencies delivering programs and services across the State.

The Department of Communities coordinates the Queensland Government's Crime Prevention Strategy. Currently, this strategy focuses on causes of offending rather than categories of offending. However, the Government acknowledges that a tiered approach that includes both universal strategies that focus on the underlying causes of crime, and targeted strategies that focus on the offending categories most prevalent among Indigenous people, may be more effective in reducing Indigenous crime. The Department of Communities is currently undertaking a review of the *Queensland Crime Prevention Strategy—Building Safer Communities* which will have a strong focus on crime prevention in Indigenous communities.

The Queensland Government has committed to a range of crime prevention initiatives that seek to achieve outcomes consistent with the objectives of the Justice Agreement including the following initiatives:

### Alcohol Management Plans

The Queensland Government has implemented a policy (known as Alcohol Management Plans (AMPs)) to restrict the availability of alcohol in certain Indigenous communities as one part of the Government's response to endemic alcohol abuse and violence in Indigenous communities in Cape York and other parts of Queensland.

This approach is consistent with the recommendations of the Cape York Justice Study report, which was submitted to Government by former Supreme Court Justice Tony Fitzgerald QC in November 2001. The Cape York Justice Study report highlighted the seriousness of the alcohol problem in Indigenous communities:

*Alcohol abuse and associated violence are so prevalent and damaging that they threaten the communities' existence and obstruct their development.*

One of the principal strategies of the MCMC response is the implementation of alcohol restrictions to minimise the harm caused by alcohol abuse and misuse. Since 30 December 2002, alcohol restrictions have commenced in 18 communities—Aurukun, Bamaga, Doomadgee, Hope Vale, Injinoo, Kowanyama, Lockhart River, Mapoon, Mornington Island, Napranum, New Mapoon, Pormpuraaw, Seisia, Umagico, Woorabinda, Wujal Wujal, Cherbourg and Yarrabah. The Government is consulting with the Palm Island community to determine the introduction of alcohol restrictions.

Some Indigenous communities have taken independent measures, passing legally enforceable alcohol restrictions through local laws.

The Government is currently reviewing the impact of AMPs and will consider the outcome of the reviews in 2006.

The Government is also examining options for diversion from custody of offenders charged with offences where alcohol is a contributing factor. Diversion strategies are discussed later in this response.

### **Community Justice Groups**

Community Justice Groups (CJGs) have the potential to play a vital crime prevention role at the local level. Many members of CJGs are respected leaders of their local Indigenous communities and subsequently have the potential to drive the development of community capacity. They have intimate knowledge of local issues, problems and potential solutions, and established relationships with local police and service providers.

Currently CJGs work within the existing legal frameworks and provide input into family-related dispute settlement, crime prevention and community development projects. They also co-ordinate with government and community agencies and provide information and advice to the judiciary, and other government decision-making bodies.

The role and functions of CJGs are discussed throughout the Government Response. Particular initiatives endorsed to respond to specific issues raised in the Evaluation Report about CJGs are detailed under 'Engaging with Indigenous communities'.

### **Further information**

Further general information about other Queensland Government crime prevention and early intervention initiatives can be found on these websites: [www.communities.qld.gov.au/community/crimeprevention/projects/supportfam/index.html](http://www.communities.qld.gov.au/community/crimeprevention/projects/supportfam/index.html) and also [www.aic.gov.au/research/cvp/localgovt/qld.html](http://www.aic.gov.au/research/cvp/localgovt/qld.html).

Relevant recommendations: 3, 4, 7, 11 and 13 in Appendix 1

## Early intervention

As people progress through life, they encounter a series of points of change or 'transitions', for example going to school, leaving home or starting a job. It is at these crucial transition points that people have new experiences and form new relationships and are most vulnerable to negative influences. However, these are also the times that people are most likely to be open to support and assistance, and intervention can occur most effectively.

Early intervention programs aim to prevent the development of criminal potential in individuals by aiming to reduce risk factors and protective factors that contribute to later offending behaviour<sup>3</sup>. Research shows that interventions are most likely to be effective if they work across multiple contexts concurrently, including individuals, families, schools and communities.

The Evaluation Report makes a number of findings and recommendations that relate to early intervention activities. The Queensland Government has committed to a range of early intervention activities with the aim of having a positive impact on Indigenous over-representation including the following:

### Child protection

The Department of Child Safety is actively working to reduce the number of Indigenous children and young people in the child protection system. The Department of Child Safety Strategic Plan 2006 confirms that the issue of Indigenous over-representation in the child protection system is central to the work of the Department.

The Department has recently introduced a number of initiatives to further concentrate on the issue of over-representation, including:

1. The allocation of \$9.4 million to develop new or enhanced 'Indigenous-recognised entities' and another \$430,000 to re-establish an Indigenous peak body to help build the capacity of Indigenous-recognised entities. Indigenous Recognised Entities are provided for under the *Child Protection Act 1999* and seek to provide culturally appropriate services to Indigenous children and families, cultural advice to the Department on child protection issues.
2. The establishment of an Indigenous Support and Development Branch in Cairns in 2005 to develop appropriate policies, procedures and community partnerships for delivering culturally appropriate child protection services.
3. The creation of 47 additional 'identified' Child Safety Support Officer positions, required to be filled by an Aboriginal or Torres Strait Islander person. These officers will facilitate intensive family support and work to enhance the capacity of families and kin to care for their children.
4. The increased availability of employment and career-development opportunities for Indigenous staff, including sponsored placements on the Wal-meta advancement program (a Department of Employment and Training registered Indigenous training program), scholarship opportunities and mentoring.

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<sup>3</sup>Farrington, D. P. (1996). Understanding and prevention youth crime. York: York Publishing Services.

5. Pre-employment opportunities for Indigenous people wishing to work in the Department, including cadetships under the National Indigenous Cadetship Project, traineeships, scholarships to undertake the Post Graduate qualification in Child Protection Practice, and the Aboriginal and Torres Strait Islander Education to Employment Program.

The Department of Communities is developing an Early Years Strategy to improve services and support for families with young children from birth to eight years of age. A key focus of the strategy targets vulnerable populations to improve their capacity to assist the development of their children in the early years of life to shape their wellbeing and future life chances.

### **Demand reduction**

The Department of Aboriginal and Torres Strait Islander Policy (DATSIP), in conjunction with the Department of the Premier and Cabinet (DPC) and other agencies, has developed the Alcohol and Other Substances Demand Reduction Program (Demand Reduction). The Demand Reduction program aims to reduce the demand for alcohol and other drugs in Aboriginal and Torres Strait Islander communities operating AMPs. The program will be run over four years commencing in 2005 and marks the next phase in the Government's ongoing commitment to reducing alcohol-related crime and violence in communities.

In the 2005–06 State Budget, DATSIP was allocated \$12m for the program over four years through the Implementation Plan for the National Strategic Framework for Aboriginal and Torres Strait Islander Health (Meeting the Challenges of Substance Misuse Strategy). An amount of \$1.97m previously allocated under the Queensland Illicit Drugs Diversion Initiative has also been allocated to the program.

The program incorporates three components:

1. Initial interventions including the implementation of youth and family support initiatives that respond to community identified priorities.
2. Service enhancement and workforce development to ensure that appropriate alcohol and drug related services are available in the communities.
3. Planning and partnerships to develop a forward looking demand reduction plan that will guide funding for activities in each community for the period 2006–09.

The focus of the program in 2005–06 is the development of initial interventions in the Group One priority of communities of Aurukun, Doomadgee, Mapoon, Mornington Island, Napranum and Palm Island. Engagement with the remaining communities eligible for funding under the program is proceeding during the 2006–07 financial year. Proposals for funding government programs and non-government services in the Group One priority communities are currently being developed with the assistance of DATSIP.

Government has made it clear through public statements that government officers also must comply with AMPs in Indigenous communities.

### Volatile substance misuse

Volatile substance misuse (VSM), particularly petrol sniffing, has been a long-term problem for Aboriginal and Torres Strait Islander communities. However, there is evidence of increasing and more widespread VSM in metropolitan areas throughout the State involving non-Indigenous and Indigenous people. While petrol sniffing is most common in remote communities, glue and paints are the more common substances in urban areas.

Since July 2004, the Queensland Government has trialled a response to VSM in five Queensland locations. Under this trial, police have the power to detain users of volatile substances and take them to a place of safety where they can recover from the immediate effects of VSM. The trial was evaluated by the Crime and Misconduct Commission during 2005, and the Queensland Government will strengthen its response to VSM in response to this evaluation. Seven new service responses to VSM will be established to complement the existing trial police powers. It is intended that the new VSM service responses will reflect local needs and capacities and be integrated with other services. The service responses will therefore incorporate a spectrum of interventions including diversionary activity programs for young people, outreach, case-management and in some cases specialist safe recovery services.

The Queensland Government is addressing the particular problem of petrol sniffing in a number of remote Indigenous communities with the implementation of a 15-month OPAL fuel trial. Under the trial, which commenced in October 2005, OPAL fuel (a fuel type that has a much lower aromatic content, the component believed to give sniffers a 'high', than regular unleaded petrol) will be included under the Queensland Fuel Subsidy Scheme. This means that trial remote communities will now be able to receive OPAL fuel at a similar price to regular unleaded petrol. Following the trial and an evaluation, the Queensland Government will consider the continuation of the fuel subsidy for OPAL.

Relevant recommendations: 4 and 5 in Appendix 1

## Indigenous victims of crime

As identified in the Evaluation Report,

*An important omission in the aims, the guiding principles, the identification of over-representation and the broad strategic directions for the Justice Agreement is the failure to acknowledge Indigenous people as victims of crime (although there is one reference to the Aboriginal and Torres Strait Islander Women's Task Force on Violence). The assumption is that Indigenous contact with the criminal justice system is as offenders, yet we know that Aboriginal and Torres Strait Islander people are over-represented in the justice system as both victims and offenders. (Executive summary p.xvii)*

The Government acknowledges that the Justice Agreement does not specifically address Indigenous people as victims of crime in Queensland. Consequently, developing a better understanding of Indigenous victimisation and effective programming responses will be a priority issue for government and will be incorporated into the ICJRA.

### Programs

The Department of Communities allocates \$26.6m triennially for services to assist people and communities affected by domestic and family violence in Queensland. Of this total amount, \$3,910,795 is allocated for services in Cairns, Townsville and Rockhampton. These services form an integral part of the support network for Indigenous victims of domestic and family violence in Queensland. They include:

- Cairns: Funding of \$1,262,178 provides two services to assist women and their children escaping domestic and family violence, two child witness counselling services (one of which targets Indigenous children), a regional domestic and family violence service, a court support service, and a counselling and support for victims of domestic and family violence. In addition, funding was allocated in this year's budget for a new men's perpetrator service and a men's fax back service for male victims of domestic abuse. It is a requirement that the successful applicant for the men's perpetrator service employ an Indigenous men's perpetrator worker.
- Townsville: Funding of \$1,699,825 provides four services to assist women and their children escaping domestic and family violence, a regional domestic and family violence service, a court support service, a counselling and support service for victims, a child witness counselling service and a men's perpetrator service. The regional domestic and family violence service has provided training and support to services on Palm Island.
- Rockhampton: Funding of \$948,792 provides one service to assist women and their children escaping domestic and family violence, a counselling and support service for victims, a men's perpetrator program, a healing service, and a court support service. A regional domestic and family violence service including a child witness counselling service, located in Emerald, links with services in Rockhampton and Indigenous services in Woorabinda.

Healing services provide culturally relevant services to Aboriginal and Torres Strait Islander communities based on a mix of traditional and therapeutic approaches including referral, advocacy, grief counselling and community education. Healing services are tailored to meet each community's needs, strengths and resources, and focus on the provision of crisis intervention, support to deal with the effects of violence, intoxication, gambling or issues related to historical/cultural dispossession. Healing services are located in Aboriginal and Torres Strait Islander communities in the Far Northern Region, Fitzroy and Central West Region, the Darling Downs and South West Region.

### **Community Justice Groups**

The Government acknowledges and is appreciative of the important support that CJGs provide to victims of crime. CJGs provide assistance at court, follow up on the progress of a matter, or assistance in completing a Victim Impact Statement. A Community Justice Group may also assist with referring a victim to an Indigenous legal service or Legal Aid Queensland for the purposes of criminal compensation. However, as acknowledged later in the Government Response, the services provided by CJGs vary from group to group and are limited by the level of funding received by the group.

Relevant recommendations: 7, 10, 11 and 12 in Appendix 1

## Diversion

The earlier young people become involved in the criminal justice system, the harder it is for them to get back onto a positive pathway. The Queensland Government supports increased use of mechanisms such as cautioning, Youth Justice Conferencing and attendance notices for Indigenous young people as alternatives to arrest. The Government also acknowledges the role that drugs and alcohol play in Indigenous offending and supports diversion initiatives that refer Indigenous offenders into appropriate treatment.

### Alternatives to arrest

Keeping Indigenous young people out of the juvenile justice system represents a positive step that will help decrease Indigenous over-representation in both the juvenile and adult systems. However, the Evaluation Report shows that currently Indigenous juveniles are much less likely than non-Indigenous juveniles to be cautioned by police.

Rates of cautioning and attendance notices are now monitored through the operational performance review (OPR) process. The Commissioner of Police phased in OPRs to focus the QPS's efforts more directly on performance. These reviews are conducted twice a year for each of the district offices in the 29 police districts and are personally facilitated by the Commissioner of Police. In these reviews each district's performance over time is examined in close detail. While the district's performance is also examined against the State average, the review concentrates on changes within the district over time, and on improving that performance.

How police officers exercise their discretion in whether to arrest or caution Indigenous juveniles will also be considered as part of the ICJRA.

Further, the QPS will continue to collaborate with Aboriginal legal services in Brisbane to implement a reliable program of cautioning by Elders, and ensure that suitable and competent respected persons are available.

The QPS and the Department of Communities are currently implementing improved processes for monitoring cautioning and youth justice conferencing. The conferencing program has had a recent substantial investment of \$2.5m per annum which has led to the expansion of the service statewide and the adoption of an improved business model to enable the program to more appropriately respond to the high demand across the state for conferencing services.

Youth justice conferencing is based on the principles of restorative justice whereby the young offender, their family or other support people, and the victim (if they wish to attend) or their representatives come together to decide on a mutually acceptable reparation. Approved convenors from the community bring together conference participants and a representative from the police to assist them to talk about the offence, how they have been affected by the crime, and how the young person might work towards repairing the damage or harm done. The purpose of the conference is to hold the young person accountable for their actions and to involve the victim and the family in the decision-making about the offending behaviour. Youth justice conferencing seeks to provide a safe and participatory process that values those involved and encourages a positive transition from past offending behaviour to a future-focused outcome.

As a result of the review of youth justice conferencing recently undertaken by the Department of Communities, key justice agencies will implement improved models for referral to youth justice conferencing. Some of the major initiatives include:

- memoranda of understanding between the QPS and the Department of Communities to improve referrals to youth justice conferencing
- the Department of Communities developing a strategy aimed at improving accessibility for Indigenous young people to youth justice conferencing
- monitoring the two types of court referrals to a youth justice conference (indefinite and conference before sentence) and evaluating the effectiveness of the diversionary referral (indefinite) for Indigenous young people by 2007.

### **Alternatives to custody**

The Government has implemented a suite of diversion programs and is currently considering a specialist Indigenous alcohol diversion program. Some details of programs follow.

#### *Drug Court*

In June 2000, a number of south-east Queensland Magistrates Courts began trialling a new way of dealing with drug offenders through a specialist Drug Court. The Drug Court offers eligible drug-dependent offenders intensive rehabilitation instead of prison. In November 2002, the trial was extended to north Queensland, and in 2006 legislation was passed making the Drug Court a permanent sentencing option for participating courts.

Australian Institute of Criminology evaluations<sup>4</sup> of Queensland Drug Courts indicate more favourable recidivism outcomes for graduates compared with non-participant groups.

#### *Queensland Illicit Drug Diversion Initiative*

The Queensland Illicit Drug Diversion Initiative is funded by the Commonwealth under the Council of Australian Government's Illicit Drug Diversion Initiative and includes the State-wide Police Diversion Program for minor cannabis offences and the Illicit Drugs Court Diversion Program in Brisbane.

Under the state-wide Police Diversion Program, eligible offenders are offered the opportunity to be diverted from the criminal justice system to attend a Drug Diversion Assessment Program (DDAP) rather than being charged for the offence.

The Illicit Drugs Court Diversion Program in Brisbane aims to divert offenders who have committed minor possession offences to a mandatory assessment and education session and has been operating throughout

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<sup>4</sup> Makkai, T., & Veraar, K. (2003). Final Report on the South East Queensland Drug Court. Australian Institute of Criminology Technical and Background Paper Series, no.6. Canberra: Australian Institute of Criminology.

Payne, J. (2005). Final Report on the North Queensland Drug Court. Australian Institute of Criminology Technical and Background Paper Series, no.17. Canberra: Australian Institute of Criminology.

Queensland since 1 July 2005. The Department of Justice and Attorney-General will conduct a three-year trial of the Illicit Drug Court Diversion Program in all Magistrates Courts and Childrens Courts across Queensland.

*Queensland Magistrate's Early Referral into Treatment (QMERIT) program*

In 2006 the Queensland Government will trial a new drug diversion program, the Queensland Magistrate's Early Referral into Treatment (QMERIT) program. The aim of the QMERIT program is to help suitably motivated drug offenders to overcome their problematic drug use and end their associated criminal behaviour through court enforced and supervised treatment programs. QMERIT will be a pre-sentence court diversion program and will be implemented using a health service delivery model. Initially, the QMERIT trial will operate in Redcliffe and Maroochydore.

*Cairns Alcohol Remand and Rehabilitation Program*

The Cairns Alcohol Remand and Rehabilitation Program (CARRP) was established in 2003 as a sentencing-based diversion scheme. It is a combined initiative of the Cairns Magistracy and police prosecution corps, in conjunction with Aborigines and Islanders Alcohol Relief Services and is aimed at addressing alcohol-related offending behaviours. The program aims to give homeless people (the majority of whom are Aboriginal and Torres Strait Islander people) an opportunity to address their frequent, alcohol-induced, offending behaviour. A formal evaluation of the program is currently being undertaken.

*Queensland Indigenous Alcohol Diversion Program*

The Queensland Government is currently considering developing an alcohol diversion pilot program for adult Indigenous offenders to reduce alcohol-related harm to the individual and their community. Defendants charged with alcohol-related offences would be referred to treatment and case management and return to the court for sentencing at the completion of their treatment. It is possible that the offences could include those identified under AMPs. The Department of the Premier and Cabinet is currently conducting targeted community consultation to gauge community support for the proposed program. If implemented, the program will be evaluated within two years.

The Evaluation Report proposed the expansion of this diversionary program to young offenders. The Government did consider making young people eligible for the program, however, given that achieving successful treatment outcomes for clients under 18 years is especially difficult, a decision was made to limit the pilot to adult offenders. This issue will be specifically explored in the evaluation of the proposed pilot program. The Government will revisit this issue again once the outcomes of the evaluation have been established.

For similar reasons, a specific youth drug court has not been developed (because of the difficulty in achieving successful treatment outcomes for young people who have been found guilty of drug offences).

The Department of Communities supports a number of diversionary centres which provide an avenue for police to divert intoxicated people who could be a danger to themselves or to others away from custody and arrest into a facility where detox and community services are available.

### *Homelessness*

The Government is addressing Indigenous homelessness through its Responding to Homelessness Strategy, launched in 2005. As part of this strategy, the Department of Justice and Attorney-General is undertaking a two-year pilot project in the Brisbane Magistrates Court aimed at diverting homeless people from custody.

The Bail Support Strategy would complement the Homelessness Strategy and use non-government services to divert homeless people from custody. The strategy would incorporate two components:

1. Non-government service providers to provide dedicated supported accommodation for defendants otherwise remanded in custody. Service providers would be responsible for identifying potential candidates through the development of partnerships with agencies such as Legal Aid Queensland.
2. A Homelessness Officer position in the Department of Corrective Services. In collaboration with service providers, the Homelessness Officer will coordinate the provision of post release transitions programs and address accommodation issues faced by offenders leaving prison.

The Queensland Government has deferred consideration of an expansion of the Bail Support Strategy until the two-year homelessness pilot project has been evaluated.

Relevant recommendations: 5, 6, 7 and 14 in Appendix 1

## Working with offenders

The Evaluation Report notes:

*Providing for proper supervision of orders in Indigenous communities will also require resources. However the longer term savings in reducing the costs of imprisonment are likely to be significant. For Department of Corrective Services, the daily cost of offenders in the community is \$8.73 per offender compared to \$167.24 per prisoner.*

*Finally it should be noted that not all strategies require significant resources. For example the greater use of diversionary options and alternatives to arrest by police is likely to be cost neutral in terms of decision-making, and have longer term savings in relation to fewer court appearances. (Forward p.xvi)*

The Government Response to recommendations and findings about working with offenders deals with juvenile detention and adult imprisonment separately.

### Juvenile detention

The Evaluation Report found that by national standards Queensland has relatively low Indigenous and non-Indigenous rates of juvenile detention. However, while there has been a reduction in the rate of Indigenous youth detention since 2000, the level of over-representation is slightly higher than when the Justice Agreement was signed.

The Evaluation Report notes:

*According to the 2001 Census, some 3.5% of all Queenslanders identified as Aboriginal and Torres Strait Islander. The estimated resident Indigenous population of Queensland was 126,035 people (ABS 2001). Of particular importance is the comparatively young age of the Indigenous population in Queensland compared to the rest of the Queensland population...*

*The age structure of the Indigenous population has been recognised for some time as a 'time bomb' in its implications for both adult and juvenile corrections if the situation of over-representation is not resolved. (Evaluation Report pp.9-10)*

The Evaluation Report concluded that the most significant impact on Indigenous youth detention rates will be achieved through programs and policies aimed at reducing the remand population. Preliminary data suggests that only a small proportion of Indigenous youth who are remanded in custody actually receive a custodial sentence.

The Department of Justice and Attorney-General's Bail Support Strategy and the Government's Homelessness Strategy aim to reduce the adult remand population (discussed further under 'Alternatives to custody' p.20). The Queensland Government has deferred consideration of an expansion of the Bail Support Strategy (including to juvenile offenders) until the two-year homelessness pilot project has been evaluated.

In the meantime, the Department of Communities is developing a remand strategy for juvenile offenders. The strategy is to comprise four key elements including:

- the development of an effective assessment tool across the criminal justice system to assess bail risk and determine bail options
- identify funds for offenders with high needs
- investigate the expansion of youth bail accommodation support services
- identify possible family support funds for high risk and high need young people and families.

### **Adult imprisonment**

Queensland has a rate of Indigenous over-representation in adult prisons which is among the lowest in the nation. The Evaluation Report concluded that there are signs that the steady increase in the rate of Indigenous imprisonment in Queensland has been halted and there has been a decline in the rate since 2002 until the most recent prison census data (2004). These figures show that while only around 3.5% of the population is Indigenous, 24.9% of prisoners identified as Aboriginal people or Torres Strait Islanders.

The outcomes of the Evaluation Report reflect the reality that it is not easy to achieve short-term reductions in the high over representation of Indigenous people in the criminal justice system. Underlying causes of over-representation must be addressed at the same time as reforms to the criminal justice system.

The Department of Corrective Services offers a range of programs targeting the offending behaviour of people subject to court supervision and post-prison orders. These include substance abuse, sexual offending, general offending and violence offending programs. Education and vocational programs provide offenders in custody with valuable skills and training to improve their literacy and educational levels, and to improve their employment opportunities upon release. These programs feature prominently in the management and rehabilitation of prisoners.

The Department also provides a number of Indigenous-specific programs that attempt to improve responsiveness to Indigenous culture. The Indigenous High Intensity Sex Offender Program, and the Ending Offending and Ending Family Violence programs include 'yarning sessions'. DCS is currently developing cognitive-behavioural programs to meet the specific needs of Indigenous and female offenders and drug-related offending. The Department encourages Elders Groups visits and the employment of Indigenous facilitators where possible.

Offenders can also be referred to programs delivered by non-Government agencies, such as Relationships Australia's Break Even Program for problem gamblers and the TAFE Under the Limit Program for drink drivers. Offenders undertaking these programs are expected to participate in all aspects of the programs, and will explore their personal offending behaviour and attitudes as part of this process.

### **Probation and Parole Service**

DCS has recently made significant changes to the way the Department delivers services and programs in the community. These changes are aimed at protecting the community from crime, reducing re-offending and addressing the causes of crime by ensuring that offenders sentenced

to community supervision comply with their orders and are provided with appropriate rehabilitation services. The reforms will mean that the Probation and Parole Service focuses on delivering supervision and surveillance of offenders, develops stronger links with the courts and the judiciary and provides a suite of major new rehabilitation programs.

The new system of court-ordered parole is due to take effect on 28 August 2006 with the introduction of the new *Corrective Services Act 2006*. Under this system, prisoners will be required to serve 100% of their sentence of imprisonment in custody or serve the remainder of their sentence under supervision in the community. For those offenders serving three years or less (who are not violent or sexual offenders), the court will fix the parole date at the time of sentence. Other prisoners will have their release to supervision determined by application through the parole boards.

The new community supervision model comprises four areas:

1. **Induction and assessment:** Specialised Induction and Assessment staff assess the needs of individual offenders and determine the best programs to meet their needs. These staff will provide court assessments, pre-sentence and order suitability reports for courts, home assessments for parole boards and advice on offender management plans.
2. **Offender management** will ensure that offenders with the highest risk will be supervised by the most experienced staff. Case plans may include attendance at specific programs i.e. drug rehabilitation, cognitive skills and sex offender relapse prevention, individual counselling or treatment, restriction on movement or association, payment of restitution or drug testing.
3. **Offender intervention services:** A network of dedicated rehabilitation hubs will be established across the State, with additional offender intervention staff dedicated to remote and regional areas offices to deliver a combination of programs designed to break the re-offending cycle.
4. **Compliance and surveillance:** Compliance Officers will be responsible for the preparation of court briefs and associated documents following the contraventions of court orders. Random surveillance of offenders will make it clear to offenders they will be constantly scrutinised while on community-based orders. In addition, to inform surveillance levels, a criminal intelligence function within the Probation and Parole Service will be established to focus on monitoring offenders.

### **Delivering services to remote and isolated communities**

DCS has recently introduced a new approach to the way it delivers programs and services to remote and isolated communities. This new model is to be introduced within the communities of Doomadgee, Mornington Island, Normanton and Thursday Island. This initiative will provide a greater range of options for sentencing courts, allowing Indigenous offenders to serve sentences in the community rather than being incarcerated, and will enable Gulf and Torres Strait Island communities to benefit from a more accountable surveillance regime and more intensive case management of offenders. The case management of offenders will occur in consultation with local stakeholder groups and offenders will also benefit from the introduction of state-of-the-art rehabilitation programs. These programs and resources will be implemented in partnership with local groups and community agencies.

Community Corrections offices will be established in the lower Gulf and Torres Strait to provide these areas with a permanent community corrections service. In May 2006, eight additional positions were created for Compliance Officers, Case Manager and additional programs staff. These staff will receive comprehensive training to prepare them to work within remote communities. This training will specifically highlight the importance of consulting and establishing working networks with relevant groups and agencies in remote Indigenous communities.

The community corrections model, working in conjunction with the new legislation, is a first for the State and will provide a higher level of supervision and case management for offenders serving court orders and parole in these remote communities. It is anticipated that these measures will assist to reduce Indigenous over-representation in Queensland prisons, as the increase in services will provide a reliable sentencing alternative for judges and magistrates.

The Department of Communities is expanding its network of Youth Justice Services to provide increased supervision for young people on community-based orders in Indigenous communities. Following a successful pilot project, the Department is expanding youth justice services through the allocation of \$11.9m over a three-year period to develop stand-alone youth justice services. These purpose-built youth justice services provide a focussed, specialist response to offending which will result in better outcomes for young Indigenous people, their families, and communities. Youth justice services will be delivered from 32 sites across the state, including large Youth Justice Service Centres (eg. Cairns, FNQ Rural and Remote, Townsville, Mt Isa), smaller services (eg. Roma, Tablelands, Cherbourg) and whole-of-government or Department of Child Safety hubs (eg. Thursday Island, Mornington Island, Cooktown).

Relevant recommendations: 6, 7 and 8 in Appendix 1

## Responsive justice system

The Queensland Government is implementing a range of initiatives to make the justice system more responsive to the needs of Aboriginal and Torres Strait Islander people as offenders, victims or family members.

### Policing models

The Queensland Police Service strategies for supporting Aboriginal and Torres Strait Islander communities are outlined in a document entitled *Strategic Directions for Policing with Aboriginal and Torres Strait Islander Peoples and Communities (2002)*. This document is closely aligned with the objectives of the Justice Agreement and incorporates the following strategies:

- providing equitable and appropriate services to Aboriginal and Torres Strait Islander people to enable them to feel safe and secure
- providing ongoing specialist support to ensure equity in service delivery to Aboriginal and Torres Strait Islander people
- providing open, effective and visible communication with Aboriginal and Torres Strait Islander people and organisations
- maximising the appropriate use of alternative action to arrest and ensure, when arrest is necessary, safe and secure custody
- providing appropriate education for all police to increase their knowledge and interpersonal skills in policing Aboriginal and Torres Strait Islander people and communities
- implementing culturally sensitive human resource management and equal employment opportunity principles and practices.

The QPS has also implemented a Cultural Appreciation Project (CAP) to ensure the provision of culturally-sensitive policing. The CAP is aimed at providing culturally appropriate in-service training to members of the QPS to follow on from the initial pre-service training. The project is currently being refined through consultation with community and other stakeholders. Trials in the Far Northern Police Region have provided preliminary indications of success.

The Queensland Government confirms its support for innovative and effective policing models for Indigenous communities. The QPS, in collaboration with other agencies, is currently examining best-practice options for policing Indigenous communities. The current review of governance in the Torres Strait, particularly relating to council responsibility for the policing function, has implications for the identification and implementation of a preferred model for policing of Indigenous communities. The QPS will work closely with the Department of Local Government, Planning, Sport and Recreation to ensure the smooth transition of any future model into Indigenous communities.

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.

The Queensland Government will request the Commonwealth Government redirect the existing CDEP funding used to employ Community Police Officers, towards the provision of additional state police resources.

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. The model will seek to:

- provide effective and professional policing services in Indigenous communities;
- provide comparable levels of policing services in Indigenous communities as in the non-Indigenous community.

### Alternative approaches

The Government is committed to exploring new and innovative methods to improve criminal justice outcomes for Indigenous offenders. The Government is currently exploring improvements in the areas of sentencing reform and alternative approaches to working with Indigenous detainees.

#### *Sentencing reform*

The Evaluation Report maintains that Aboriginal and Torres Strait Islander people are over-represented among those serving short sentences and argues that any change to the availability of short prison sentences will have a significant impact on Indigenous prisoner numbers entering the system. Consequently, the Evaluation Report recommends that the Government consider the abolition of six-month prison sentences.

The merit of such an approach has not as yet been established. As the Evaluation Report notes, Western Australia achieved a 12% reduction in the number of prisoners in the two years leading up to the passage of the *Sentencing Legislation Amendment and Repeal Act 2003*. However, following the abolition of prison sentences of six months or less, there has been an increase in prisoner numbers. There are several explanations for this, including an increase in the number of fine defaulters being imprisoned as courts imposed fines instead of prison sentences. In addition, there was a concurrent increase in the maximum penalty for many offences from six months to 12 months.

The NSW Sentencing Council reported on the issue of abolishing prison sentences of six months or less in November 2004 and noted that the major criticism of short prison sentences is their limited rehabilitative value. Many argue that people who are sentenced to a short term of imprisonment could be better sentenced in the community. The Council also highlighted the potential of such a strategy to lead to sentence creep. That is, offenders who would normally be given a sentence of less than six months might be given a longer sentence. The NSW Attorney-General has subsequently indicated that he does not believe the abolition of six-month sentences would achieve the reforms that are frequently claimed for such a radical step<sup>5</sup>.

The Queensland Government does not support abolition of six-month prison sentences.

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<sup>5</sup> Bob Debus, Response to Council's report. Judicial Officers Bulletin 17 (2) March 2005 : 12,16

## **Justices of the Peace (Magistrates Court) program**

The Justices of the Peace (Magistrates Court) program was initiated by the Queensland Government in 1993 as a component of its response to the recommendations of the Royal Commission. The program seeks to assist in overcoming Aboriginal and Torres Strait Islander people's usually negative interaction with the criminal justice system, whether as a victim of a criminal act, an accused person, or otherwise, by offering Aboriginal and Torres Strait Islander people opportunities to play positive roles within the system.

Two Justices of the Peace (Magistrates Court) constitute court in the absence of a Magistrate, and have the responsibility for hearing and determining charges of simple offences or indictable offences which might be dealt with summarily where there is a guilty plea. The Justices of the Peace (Magistrates Court) can also commit defendants for trial or sentence by a superior court after an examination of witnesses.

Training of Justices of the Peace (Magistrates Court) occurs in consultation with stakeholders such as Community Councils, Community Justice Groups and the Queensland Police Service. Ongoing support is provided to Justices of the Peace (Magistrates Court) by the Department of Justice and Attorney-General JP Branch, including follow up visits to the community every 6 months. The JP Branch also conducts seminars on court processes for community members to ensure that members of the community are informed as to the role of Justices of the Peace (Magistrates Court).

Currently, 174 Justices of the Peace (Magistrates Court) are trained to constitute court in 17 communities throughout Queensland: Aurukun, Badu Island, Bamaga/Seisia/New Mapoon/Injinoo/Umagico, Cherbourg, Doomadgee, Hope Vale, Kowanyama, Lockhart River, Mornington Island, Napranum, Old Mapoon, Palm Island, Pormpuraaw, Thursday Island/Torres Strait Islands, Woorabinda, Wujal Wujal and Yarrabah. Murray Island commenced training in May 2006.

As part of its Indigenous Justice Strategy, the Department of Justice and Attorney-General is committed to an independent evaluation of the Justices of the Peace (Magistrates Court) program in the 2006–07 financial year. Reflecting the concerns raised in the Evaluation Report, this evaluation will address sentencing outcomes, recidivism, culturally appropriate processes and other community justice issues, including remuneration and sitting fees.

## **Access to justice**

The Queensland Government acknowledges the importance of equality of access to justice and continues to support strategies that increase access to legal representation and interpreters. Given the existing disproportionate representation of Indigenous people in the criminal justice system, and the underlying social and economic disadvantage experienced by many Indigenous Queenslanders, it is vital that Indigenous people have access to appropriate legal aid services. Failure to provide legal aid assistance, even where there is no risk of a term of imprisonment, can potentially lead to unfair outcomes for Indigenous people and compound their social and economic disadvantage. The availability of appropriate, quality legal aid services for Indigenous people is fundamental to the objectives of access to justice and fair participation in the administration of justice.

### *Legal representation*

The Evaluation Report notes that the current lack of representation experienced by Indigenous Queenslanders flows from the Commonwealth Government's revised funding arrangements for Indigenous legal services.

The Queensland Government has raised concerns about the delivery of legal representation to Indigenous people in North Queensland with the Commonwealth Government. It appears that the position is now improving as the Commonwealth Government works with the service provider to address transitional issues to improve service delivery.

The Queensland Government will continue to work with the Commonwealth Government and with identified stakeholders such as the local Indigenous communities, the judiciary and Legal Aid Queensland. A collaborative approach will ensure that the respective governments can respond to any arising issues in the region.

Legal Aid Queensland (LAQ) currently provides information, advice and representation to Indigenous clients in all areas of law and in all areas throughout the State. The Integrated Indigenous Strategy Unit of LAQ increases access to LAQ services by Indigenous clients through promotion of LAQ services, community education, community involvement and collaborative arrangements with other Indigenous legal service providers.

LAQ and both the northern and southern zone Aboriginal and Torres Strait Islander Legal Service (ATSILS) are developing formal Memoranda of Understanding that will work to ensure that Indigenous clients are always represented in criminal cases (including ensuring duty lawyer services are provided consistently across the State) and usually represented in family and civil cases.

This financial year the Townsville office of LAQ will implement a duty lawyer service in the Cleveland Youth Detention Centre to complement the work of ATSILS. Also this financial year, due to policy changes in the child protection system, LAQ will focus on education with stakeholder agencies to ensure Indigenous parents are aware of their legal rights in relation to child protection issues.

At the regional level, LAQ is working with ATSILS, Indigenous Family Violence Prevention Legal Services and private firms to ensure seamless referral pathways, limited duplication of services and service delivery gaps are filled, through the development of regional legal service alliances and coalitions.

### *Interpreters*

The Queensland Government acknowledges that Aboriginal and Torres Strait Islander people who speak English as a second language can find accessing government and non-government services difficult. In legal proceedings, whether for civil or criminal matters, miscommunication can mean that evidence can be misinterpreted or lost.

The Royal Commission examined the issue of the need for the provision of Aboriginal languages interpreter services and made two specific recommendations relating to the need for competent interpreters. The Commonwealth and each of the states and territories supported or indicated in-principle or qualified support for these recommendations.

In response to the Royal Commission recommendations, the Commonwealth funded a program for the training of Aboriginal people as Aboriginal languages interpreters which commenced operation in 1994. A number of Aboriginal people were trained but funding was discontinued in 1997 consistent with the original timeframe. The Commonwealth suggested at this point that states/territories assume responsibility for the funding of future programs. The Commonwealth Government has continued to provide funding for the Aboriginal Interpreter Service in the Northern Territory to improve access to mainstream services for Indigenous Australians.

The Queensland Government will continue to work with the Commonwealth to address the funding of enhanced Indigenous interpreter services in this State.

LAQ employs Indigenous women in Brisbane and regional areas who act as informal general interpreters (with the exception of a Torres Strait Islander employee who speaks fluent Creole) to assist clients who use LAQ.

In an attempt to ensure that court proceedings are clearly understood by all participating parties, the Department of Justice and Attorney-General and Department of Aboriginal and Torres Strait Islander Policy collaborated to produce a publication designed to help the court communicate with speakers of Aboriginal English ([www.justice.qld.gov.au/courts/pdfs/handbook.pdf](http://www.justice.qld.gov.au/courts/pdfs/handbook.pdf)).

Relevant recommendations: 4, 5, 8, 9 and 10 in Appendix 1

## Engaging with Indigenous communities

Community engagement is fundamental to the Queensland Government's new way of doing business under the PQ framework. The Evaluation Report states that there is 'a vacuum in representative and community consultative bodies for Indigenous people'.

The Government currently supports a number of strategies that promote collaboration and communication between Indigenous people and government agencies. For example the Department of Communities jointly developed with DATSIP, the *Engaging Queenslanders: Introduction to working with Aboriginal and Torres Strait Islander Communities* resource which is designed to improve engagement between government and Aboriginal and Torres Strait Islander people. It is designed to enhance existing tools of engagement and provide guidelines which can be interpreted as each experience of engagement requires.

The current scheme of processes (both in relation to specific issues and the more formal ongoing mechanisms) are an effective way in which to ensure that Indigenous people have significant input into proposals affecting their interests in a way that reflects the partnerships that have been established between government and the Indigenous community.

Negotiation Tables and Ministerial Round Tables provide a means for coordinating community engagement, and Community Cabinets and the Government Champion initiatives bring key government decision-makers closer to Indigenous communities and increase awareness of local issues. The Government proposes to establish a state-wide Community Justice Group Reference Group as a means of engaging with Indigenous communities on justice issues. The Government also continues to engage with Indigenous agencies on a number of specific issues as the need arises.

### Community Justice Groups

Community Justice Groups (CJGs) began in Queensland as part of the Local Justice Initiatives Program, which formed part of the Queensland Government's response to the recommendations of the Royal Commission. This program provided funding for Aboriginal and Torres Strait Islander communities and organisations to develop strategies within their communities for dealing with justice issues. Currently, there are 43 CJGs in both remote and urban areas in the State. As identified in the Evaluation Report, there are many differences between the groups in terms of their size, representation and power.

The Government acknowledges and values the significant work undertaken by members of CJGs throughout Queensland. The Government appreciates that work is undertaken on a voluntary basis by many people with competing family and working responsibilities.

CJGs make a significant contribution in the areas of child safety, health and education. The *Penalties and Sentences Act 1992* and the *Juvenile Justice Act 1992* were amended in 2001 to provide that when sentencing an Aboriginal or Torres Strait Islander person, a court must have regard to any submissions made by a CJG from the offender's community that are relevant to the sentencing of the offender.

The Evaluation Report notes that CJGs are inadequately skilled and resourced comparative to the roles they perform. The Evaluation Report recommends that CJGs be funded by all justice agencies that use their services and that the Government consider transferring the administration of CJGs to the Department of Justice and Attorney-General, given both the nature of their work and the move of DATSIP away from service delivery.

The Government has determined that responsibility for CJGs will be transferred from DATSIP to the Department of Justice and Attorney-General from 1 July 2006. As a part of this process, the Government is examining organisational and resourcing arrangements for CJGs.

The Department of Justice and Attorney-General will also establish a state-wide Community Justice Group Reference Group to work with the two Indigenous legal services in the State to engage with Indigenous communities on justice issues, enable Indigenous input into the ongoing implementation and monitoring of the Justice Agreement, and provide a mechanism for the provision of Indigenous advice to government on justice issues.

### **Negotiation Tables**

Negotiation Tables are the key interface between communities and government and provide an effective mechanism to address priority issues within each community. Negotiation Tables involve a sustained process of consultation, planning and negotiation between community leaders and senior public officials, and ensure that Aboriginal and Torres Strait Islander community representatives can directly influence government decision-making. State and federal government agencies, elected officials representing Aboriginal and Torres Strait Islander interests, regional and local Aboriginal and Torres Strait Islander organisations and community groups collaborate to develop new ways of working together, undertake mutual planning and goal setting, develop community action plans and be responsible for outcomes. The Government, working through DATSIP, then negotiates cooperative and shared arrangements and harnesses resources to respond to the priorities that have been identified by communities.

### **Ministerial Round Tables**

Ministerial Round Table processes offer further opportunities for community engagement with Indigenous people from the business, government, academic and the non-government sectors. Round tables focus on high-level discussions about social, economic, environmental and justice issues and lead to initiatives aimed at achieving real change at the community level. The outcomes of the process are linked into regional and local mechanisms including regional managers' coordination networks, Indigenous initiative subgroups and Negotiation Tables.

It is envisaged that four round tables will be held each year, with each one focusing on a different PQ goal. A report on the outcomes resulting from each ministerial round table will be provided to the PQ Chief Executive Officers Committee and the Senior Officers Group for information, advice and action across government.

## **Community Cabinets**

Community Cabinets also play an important part in community engagement. Through this process, the Government commits to discussions with representative bodies, both Commonwealth and State, on other strategies to improve engagement with Indigenous communities on justice issues.

## **Government Champions**

The Government has appointed chief executive officers of State Government departments as Government Champions for specific communities. Government Champions represent the Government and act in partnership with their relevant communities. This initiative adopts a whole-of-government approach to developing opportunities and solutions within a community. The Government Champions pursue opportunities to join up the efforts and contributions of different state and federal government departments, elected officials representing Aboriginal and Torres Strait Islander interests, regional Aboriginal and Torres Strait Islander organisations, and community groups. In doing so, the Government aims to build a productive relationship with communities and ensure that government commitments are met.

## **Engaging with Indigenous agencies**

The Government will also continue to develop effective working relationships with Indigenous organisations. The Cape York Partnerships strategy, for example, is a regional place management approach which focuses on economic development as a means of breaking the cycle of welfare dependency in Cape York. As part of this initiative the Queensland Government has provided significant resources to the Cape York Partnerships Office and the Cape York Economic Development strategy to strengthen government, community and business sector partnerships.

One of the innovative outcomes from the Cape York Partnerships approach has been the formation in Cairns of the Cape York Strategy Unit within the Department of Aboriginal and Torres Strait Islander Policy. The Cape York Strategy Unit, which supports and facilitates the process of Negotiation Tables, works closely with Aboriginal and Torres Strait Islander partners, Government Champions and individual Cape York communities.

Indigenous Community/Police Consultative Groups promote and develop genuine partnerships between the police and community in order to resolve local problems. They also provide a facility to promote and explain police procedures and legislation. These were established in response to misunderstandings about these matters which caused anxiety and concerns in the community.

**Relevant recommendations: 3 and 11 in Appendix 1**

## Performance monitoring

### Action plans and other accountability measures

The Government Response to the Evaluation Report accepts the recommendation that there be ongoing auditing and evaluation of the implementation of the Justice Agreement.

The Response confirms that the Partnerships Queensland performance monitoring framework is an effective reporting mechanism to achieve the recommended audit activities.

Partnerships Queensland has four key goals—strong families/strong cultures, safe places, healthy living, and skilled and prosperous people and communities. The Partnerships Queensland performance monitoring framework will track progress against these key goals and priority action areas.

One of the response plans being developed under Partnerships Queensland is the Crime and Violence Response Plan. This response plan addresses issues arising out of the Justice Agreement, and in particular the Evaluation Report.

The Crime and Violence Response Plan will also become the annual action plan under the Justice Agreement.

The Cabinet reporting arrangements under Partnerships Queensland will apply to the strategies and deliverables in the Crime and Violence Response Plan, as well as to the specific responses to the recommendations from the Evaluation Report.

Oversight of the implementation of the Justice Agreement will continue through a variety of means, including the Partnerships Queensland CEO Committee, the Law and Justice CEO Committee, and the CEO Sub-Committee on the implementation of the Justice Agreement.

The Queensland Government will commission a further independent evaluation in the final year of the Agreement. The 2011 evaluation will include an assessment of the reporting arrangements under Partnerships Queensland.

# Appendix 1

## Evaluation Report Recommendations and Government Response

No.	Recommendations	Government Response
1	<p><b>Continuation of the Justice Agreement</b></p> <p>The Justice Agreement was signed in good faith by Indigenous representatives and Ministers of the Crown. The Agreement and the broad principles within it should be retained. However, there is also a need to reconsider specific elements of the Agreement in the light of more recent policy developments. The twenty outcome areas should be reduced to three key result areas as identified in section 5.21 of the evaluation. Key strategies are identified in section 9.5 of the evaluation report.</p> <p>The long term aims of the Justice Agreement should be revised to include specific reference to reducing Aboriginal and Torres Strait Islander contact with the criminal justice system as both offenders and victims of crime.</p>	<p><b>Conditional support</b></p> <p>The Queensland Government remains committed to the Justice Agreement and agrees that the Justice Agreement will be retained.</p> <p>The Government supports taking a more targeted approach to the implementation of the Agreement, focussing on outcomes, enhanced service delivery and better results for Indigenous victims of crime. The key results areas identified in section 5.21 of the Evaluation Report have already been addressed in the Justice Agreement Action Plan 2003–04 and will continue to be addressed through the Crime and Violence Response Plan under Partnerships Queensland (PQ).</p> <p>In the main body of the Government Response to the Evaluation of the Justice Agreement, the Government responds comprehensively to the key strategies identified by Professor Cunneen as needing serious consideration.</p> <p>The Government acknowledges that the Justice Agreement does not specifically address Indigenous people as victims of crime in Queensland. As the Justice Agreement will not be re-executed (because of the issue of representative bodies) no revision of the aims in those terms will occur. However, Indigenous people as victims of crime have been identified as a priority issue for the Indigenous Research Agenda (see recommendation 7) and will be an ongoing focus for government consideration and action.</p>
2	<p><b>Implementation, audit and evaluation of the Justice Agreement</b></p> <p>The original Justice Agreement made provisions for three evaluations during the life of the Agreement. The first evaluation has taken place after nearly five years. It is recommended that at least one further evaluation occur prior to the completion of the Agreement.</p> <p>However, it is also recommended that ongoing auditing of the implementation of the Agreement be conducted by an independent body (eg. the Crime and Misconduct Commission). An example of this type of auditing can be found in the New South Wales Ombudsman (2005) audit of the implementation of the New South Wales Police Aboriginal Strategic Direction. The audit process means that managers are more conscious of their obligations under the Justice Agreement.</p>	<p><b>Conditional support</b></p> <p>The Queensland Government supports the recommendation for implementation, ongoing audit and evaluation of the Justice Agreement. As the first evaluation has been a comprehensive exercise and because there have been significant policy developments at State and Commonwealth levels during the life of the Justice Agreement so far, it is no longer proposed to conduct three evaluations. The Queensland Government will commission an independent evaluation in the final year of the Agreement. This evaluation will also be tabled in Parliament.</p> <p>The Government considers that the PQ performance monitoring framework will achieve the recommended audit activities. The strategies and deliverables outlined in the Crime and Violence Response Plan (under PQ) will be reported to Government. The 2011 evaluation will include an assessment of the reporting arrangements under PQ. This audit will take into account the refocus of the Justice Agreement on the three key result areas, as referred to in recommendation 1.</p>

<p><b>3 Aboriginal and Torres Strait Islander Justice Advisory Council</b></p> <p>It is recommended that an Aboriginal and Torres Strait Islander Justice Advisory Council be established which facilitates regional representation, as well as representation from Indigenous justice agencies or relevant organisations which might include but is not limited to CJGs, legal services and Indigenous local government. New South Wales and Victoria provide examples for effective regionally-based AJACs.</p>	<p><b>Not support</b></p> <p>The Queensland Government does not support the establishment of an Aboriginal and Torres Strait Islander Justice Advisory Council. Previous advisory mechanisms operating in Queensland have not proven to be an effective way to engage with Indigenous people.</p> <p>The Government currently supports a number of strategies that promote collaboration and communication between Indigenous people and government agencies. The Government believes that the current scheme of processes (both in relation to specific issues and the more formal ongoing mechanisms) are an effective way in which to ensure that Indigenous people have significant input into proposals affecting their interests. These processes operate in a way that reflects the partnerships that have been established between government and the Indigenous community.</p> <p>Negotiation Tables and Ministerial Round Tables provide a means for coordinating community engagement. Community Cabinets and Government Champions bring key government decision-makers close to Indigenous communities and increase awareness of local issues. The Government also continues to engage with Indigenous agencies, and proposes establishing a state-wide Community Justice Group Reference Group to engage with Indigenous communities around justice issues (see recommendation 11).</p>
<p><b>4 Crime prevention</b></p> <p>It is recommended that funding for Indigenous crime prevention projects should prioritise programs that target the offending categories most prevalent among Indigenous people including theft and unlawful entry for juveniles, and public order and justice related offences for both adults and juveniles.</p> <p>The multi-agency community-based officers project in Cape York should be encouraged as a less expensive option to the full establishment of PCYCs.</p>	<p><b>Support</b></p> <p>Department of Communities is primarily responsible for crime prevention initiatives. In conjunction with the development of its Indigenous strategy, this Department will review its existing programs to ensure the provision of evidence-based program responses to Indigenous juvenile crime.</p> <p>The Government is committed to the expansion of the Community Activity Program through Education (CAPE) Indigenous program for young people as identified in the Evaluation. The CAPE program is designed to enable the development of youth leadership, team skills and potential employment for young people in sport and recreation, while at the same time reducing juvenile crime and volatile substance misuse. It is delivered by the Queensland Police Citizens Youth Welfare Association. The program is already operating at Wujal Wujal and Hope Vale. Government will be expanding this project into another eight communities across the Cape.</p>
<p><b>5 Alternatives to arrest: Diversion</b></p> <p>It is recommended that the Police Service develop a strategic plan with strong management oversight to:</p> <ul style="list-style-type: none"> <li>• Increase police cautioning of Indigenous young people and referrals of Indigenous young people to conferences. In relation to conferencing, the strategic plan should be developed jointly with youth justice services. Regions with low cautioning and conferencing referral rates should be targeted initially.</li> <li>• Ensure that police processing of minor offenders involve the use of attendance notices rather than arrest.</li> </ul> <p>Cautioning rates, conferencing referrals rates and rates of arrests compared to attendance notices need to be monitored and incorporated into operational performance reviews.</p>	<p><b>Support</b></p> <p>The QPS Cultural Advisory Unit has developed Strategic Directions for Policing Aboriginal and Torres Strait Islander Peoples and Communities—a policy that is closely aligned with the objectives of the Justice Agreement and the findings of the Evaluation.</p> <p>The Queensland Government supports increased use of mechanisms such as cautioning, youth justice conferencing and attendance notices for Indigenous young people as alternatives to arrest.</p> <p>The QPS and the Department of Communities are currently implementing improved processes for monitoring cautioning and conferencing. The current focus by QPS on juvenile justice and child protection issues is being extended into the operational performance reviews (OPRs) to include monitoring of rates of cautioning and attendance notices.</p> <p>The issue of how police officers exercise their discretion whether to arrest or caution in relation to Indigenous juveniles will be considered as part of the Indigenous research agenda (see recommendation 7).</p> <p>The QPS will continue to collaborate with Aboriginal Legal Services in Brisbane to implement a reliable program of cautioning by Elders, and ensure that suitable and competent respected persons are available.</p>

<p><b>6 Alternatives to custody</b></p> <p>The capacity of the conditional bail and bail support programs needs to be expanded in areas of identified need, and particularly in remote communities.</p>	<p><b>Support</b></p> <p>Addressing Indigenous homelessness forms part of the Government's 2005 Responding to Homelessness Strategy. Under this strategy, the Department of Justice and Attorney-General is undertaking a two year pilot project aimed at diverting homeless people from custody (based on referrals from the Brisbane Magistrates Court).</p> <p>The Bail Support Strategy aims to complement the Homelessness Strategy and use non-government services to divert homeless people from custody. Non-government service providers are being funded to provide dedicated supported accommodation for defendants who would otherwise be remanded in custody. A Homelessness Officer position is also being created in the Department of Corrective Services to appoint, administer, review and be the key contact point for non-Government service providers.</p> <p>In 2005, the Queensland Government decided to defer consideration of an expansion of the Bail Support Strategy until the two-year homelessness pilot project has been evaluated.</p> <p>The Department of Communities will undertake an analysis of the reasons for the high levels of remand for Indigenous young people in 2006. The capacity of conditional bail and bail support programs will be considered as part of the Department of Communities' overall remand management strategy for juveniles. In addition, the Department of Communities will work with CJGs and respected elders in communities to increase the take-up of conditional bail and bail support programs and to improve community support for young people on bail.</p>
<p><b>7 Indigenous criminal justice research agenda</b></p> <p>It is recommended that an Indigenous Criminal Justice Research Agenda be developed to drive policy initiatives. The Agenda should include but not be limited to the following:</p> <ul style="list-style-type: none"> <li>• Analysis of Indigenous victimisation data, particularly in relation to Indigenous women;</li> <li>• Analysis of breach rates and prosecutions for domestic and family violence orders;</li> <li>• Analysis of the reasons for high levels of remand for Indigenous young people;</li> <li>• Analysis of the reasons behind sentencing disparities between Indigenous and non-Indigenous offenders (both juvenile and adult).</li> </ul>	<p><b>Support</b></p> <p>The Department of the Premier and Cabinet's Criminal Justice Research Unit will coordinate the development of an Indigenous criminal justice research agenda that will address the four issues raised in the Evaluation and will inform Indigenous policy development across government.</p> <p>The proposed Indigenous criminal justice research agenda will be developed under the supervision of the Law and Justice CEO Committee with representatives from the key criminal justice agencies as well as the Department of Aboriginal and Torres Strait Islander Policy. The Committee will also monitor progress against key research projects.</p> <p>In addition to the key research areas identified in the Justice Agreement Evaluation, the Indigenous criminal justice research agenda will link into the wider government review and evaluation environment. Reviews undertaken by agencies will offer insight into how criminal justice service delivery to Indigenous people can be improved and will help focus the research agenda on key priorities. The Department of the Premier and Cabinet will also have responsibility for coordinating the dissemination of research results to criminal justice agencies to ensure that the research informs policy development.</p>
<p><b>8 Alternative approaches</b></p> <p>It is recommended that the Department of Justice and Attorney-General prepare a discussion paper for government consideration on the abolition of six-month prison sentences, and the Department of Corrective Services give serious consideration to alternative approaches to working with Indigenous detainees developed in Canada and NSW.</p>	<p><b>Not support</b></p> <p>The Queensland Government does not support the abolition of six-month prison sentences.</p> <p>The Department of Corrective Services will not examine alternative approaches to working with Indigenous detainees as developed in Canada, given the results of a legislative review which included the examination of release mechanisms for prisoners serving short sentences.</p> <p>The introduction of the <i>Corrective Services Act 2006</i> has resulted in consequential amendments to the <i>Penalties and Sentences Act 1992</i> which will provide for court ordered parole release for offenders sentenced to imprisonment for up to three years. It is considered that this will result in significant increase in the number of Indigenous offenders released to community supervision.</p> <p>The establishment of the new Probation and Parole Service will mean improved service delivery in rural and remote Indigenous communities and expanded use of community-based orders to all Indigenous communities. The permanent presence of supervision and program staff at Thursday Island, Doomadgee, Normanton and Mornington Island represents improved service delivery for these areas which previously received supervision and program visits no more than once or twice a month (including court circuit visits).</p>

<p><b>9 JP (Magistrates Courts)</b></p> <p>It is recommended that, in line with the Department of Justice and Attorney-General Indigenous Justice Strategy commitments, the JP (Magistrates Courts) be independently evaluated with respect to sentencing outcomes, recidivism, culturally appropriate processes and other community justice issues.</p>	<p><b>Support</b></p> <p>The Queensland Government supports an independent evaluation of the Justices of the Peace (Magistrates Court) program, to be conducted as part of the Department of Justice and Attorney-General Indigenous Justice Strategy during the 2006–07 financial year.</p>
<p><b>10 Access to justice</b></p> <p>Legal representation and understanding of legal proceedings are basic requirements. It is recommended that the Department of Justice and Attorney-General develop strategies with LAQ and ATSILS to ensure legal representation and the availability of interpreters.</p>	<p><b>Support</b></p> <p>The Queensland Government acknowledges the importance of equality of access to justice and continues to support strategies that increase access to legal representation and interpreters.</p> <p>Legal Aid Queensland (LAQ) and both the northern and southern zone ATSILS are developing formal Memoranda of Understanding to ensure that Indigenous clients are always represented in criminal cases (including duty lawyer services) and usually represented in family and civil cases. At a regional level, LAQ is working with ATSILS, Indigenous Family Violence Prevention Legal Services and private firms to ensure seamless referral pathways, limited duplication of services and service delivery gaps are filled, through the development of regional legal service alliances and coalitions.</p> <p>LAQ employs Indigenous women in Brisbane and regional areas who act as informal general interpreters (with the exception of a Torres Strait Islander employee who speaks fluent Creole) to assist clients who use LAQ. The Queensland Government will work with the Commonwealth to address the funding of enhanced Indigenous interpreter services in this State.</p> <p>The current funding arrangements have the potential to result in a deterioration in access to justice, particularly in remote communities. The Queensland Government will continue to draw the consequences of these arrangements to the attention of the Commonwealth in forums such as the Standing Committee of Attorneys-General.</p>
<p><b>11 Funding and support of Community Justice Groups</b></p> <p>It is recommended that the CJGs are funded by all justice agencies who utilise their services through a joint funding agreement, or a fee for service system is developed. Funding should provide for CJG members to be reimbursed for out-of-pocket expenses.</p> <p>Consideration should be given to transferring the administration of community justice groups to Department of Justice and Attorney-General given both the nature of their work and the move of DATSIP away from service delivery.</p> <p>A state-wide CJG reference group should be established, this group should feed into the Aboriginal and Torres Strait Islander Advisory Council.</p>	<p><b>Support</b></p> <p>The Queensland Government has approved the transfer of the administration of CJGs from DATSIP to the Department of Justice and Attorney-General, to take effect from 1 July 2006.</p> <p>Organisational and resourcing arrangements for CJGs will be reviewed following the transfer of responsibility. The positioning of CJGs within this Department will enable a heightened focus on the resources required to support the groups, including the establishment of a state-wide Community Justice Group Reference Group to have input into whole-of-government consultation processes.</p>
<p><b>12 Murri Courts</b></p> <p>It is recommended that the Murri Court be developed as an integrated justice strategy that has a legislative base and is properly resourced and supported. As part of the development of the Murri Court there should be an evaluation of the effectiveness of the court which considers both re-offending measures and community capacity building.</p>	<p><b>Conditional support</b></p> <p>The Department of Justice and Attorney-General is currently conducting a process review of operational Murri Courts. This review was commissioned by the Attorney-General in September 2005 and the Government will consider the final report in 2006.</p> <p>More research will be conducted to determine the impact of the Murri Court on key offending and social outcomes and the effectiveness of the court on re-offending measures and community capacity building as identified in the recommendation.</p> <p>Funding to resource existing Murri Courts for three years has been approved in the 2006–07 Budget.</p>

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**13 Alcohol Management Plans**

It is recommended that the penalties applicable to Subsection 168B(1) of the Liquor Act should be reviewed and the penal sanctions should be repealed.

**Not support**

This recommendation is contrary to Queensland Government policy to restrict the availability of alcohol in certain Indigenous communities and is not supported.

Alcohol restrictions in Indigenous communities are one part of the Government's response to endemic alcohol abuse and violence in Indigenous communities in Cape York and other parts of Queensland. This policy is consistent with the recommendations in the Cape York Justice Study report, which was submitted to government by Tony Fitzgerald QC in November 2001. The Government is actively reviewing the Alcohol Management Plans and will consider the outcome of the reviews.

Government is also focusing on ensuring that the criminal justice system response to offending under the alcohol management plans includes diversion programs that will facilitate access to alcohol and other drug treatment to address the root cause of the offending behaviour (see response to recommendation 14 for further details).

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**14 Drug and Alcohol Courts**

It is recommended that

- Needs analysis be undertaken to determine the potential development of a youth drug court, and expansion of the proposed adult alcohol diversionary program to young offenders
- Previous recommendations from drug court and drug diversionary evaluations aimed at improving Indigenous participation be implemented
- There be ongoing evaluation to ensure that existing and new drug and alcohol court diversionary processes meet the needs of Indigenous clients, particularly in rural and remote areas.

**Support**

The Queensland Government acknowledges that drugs and alcohol are frequently involved in offending by Indigenous people. The Government is currently considering the development of a bail-based alcohol diversion pilot program for adult Indigenous offenders in various regional cities. Defendants charged with alcohol-related offences would be referred to treatment and case management and would return to the court for sentencing at the completion of their treatment. The program would be evaluated from its commencement.

The proposed pilot alcohol diversion scheme does not cater for clients under 18 years of age given difficulties in achieving successful treatment outcomes for clients under 18 years. However, the Queensland Government will revisit this issue once the proposed pilot program has been evaluated. A youth drug court has similarly not been developed for similar reasons.

The Queensland Government accepts the need to further consider recommendations from evaluations aimed at improving Indigenous participation in diversion programs and has referred this issue to the Drug Court Reference Group and the State Reference Group for the Queensland Illicit Drug Diversion Initiative.

Volatile substance misuse, particularly petrol sniffing, has been a long-term problem for Aboriginal and Torres Strait Islander communities. However, there is evidence of increasing and more widespread volatile substance misuse in metropolitan areas throughout the state involving non-Indigenous and Indigenous people. While petrol sniffing is most common in remote communities, glue and paints are the more common substances in urban areas.

Since July 2004, the Queensland Government has trialled a response to volatile substance misuse in five Queensland locations giving police powers to detain users of volatile substances and take them to a place of safety where they can recover. The trial was evaluated by the Crime and Misconduct Commission during 2005.

In response to the Crime and Misconduct Commission's evaluation, the Queensland Government will strengthen its response to volatile substance misuse. Seven new service responses to volatile substance misuse will be established to complement the existing trial police powers.

The Queensland Government is also addressing the problem of petrol sniffing in some remote Indigenous communities with a 15-month OPAL (low aromatic) fuel trial that commenced in October 2005. Under the Meeting the Challenges of Substance Misuse Strategy, the Government has also allocated \$12m to be spent over four years to strengthen families and target the economic, social and cultural impacts of harmful and hazardous substance abuse.

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15 QATSIP

It is recommended that as a matter of priority that a strategy be developed and implemented to effect the replacement of Indigenous community police with QATSIP.

QATSIP refers to the Queensland Aboriginal and Torres Strait Islander Police.

**Not support**

The Queensland Police Service (QPS) supports going beyond this original recommendation to ensure the delivery of quality policing services in Indigenous communities.

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.

The Queensland Government will request the Commonwealth Government redirect the existing CDEP funding used to employ Community Police Officers, towards the provision of additional state police resources.

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. The model will seek to:

- provide effective and professional policing services in Indigenous communities;
  - provide comparable levels of policing services in Indigenous communities as in the non-Indigenous community.
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