

12. Police Accountability

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Summary

12.1 Police responses can have an impact on the rate of imprisonment of Aboriginal and Torres Strait Islander peoples. Police are at the ‘front line’ in the criminal justice system. They receive direct complaints of criminal behaviour, investigate those complaints and then may lay charges. Police have significant powers, including in many instances, a discretion to charge or not charge an individual with an offence.

12.2 This chapter asks how police responses and practices in relation to Aboriginal and Torres Strait Islander peoples might be improved, including questions about how police might work better with Aboriginal and Torres Strait Islander communities to prevent family violence; how to improve police readiness for working in Aboriginal and Torres Strait Islander communities; the value of reporting and evaluating police programs and initiatives involving Aboriginal and Torres Strait Islander peoples; and the value of Reconciliation Action Plans and employment strategies for state and territory police services.

Background

12.3 An Australian Institute of Criminology study in 1988 found that most Australians respected and felt protected by the police forces of the states and territories.¹ However, an Aboriginal and Torres Strait Islander perspective can differ—

1 Bruce Swanton et al, ‘How the Public See the Police: An Australian Survey’ (Trends and Issues in Crime and Criminal Justice No 11, Australian Institute of Criminology, 1988).

given the historical nature of the involvement of police in the lives of Aboriginal and Torres Strait Islander peoples post-1788, where

police came to take on the role of protectors of Aboriginal communities situated on reserves and missions. This role involved them in considerable supervision of Aboriginal people's lives. It is symbolised by images of them returning runaways in neck and leg chains ... It also came to involve the removing children from their families.²

12.4 Many see the 1967 referendum as a 'watershed moment', when Australia voted for the betterment of Aboriginal peoples.³ Jo Kimara has however suggested that, although policing policies changed following the 1967 referendum, such a change was not necessarily for the better:

Far from being inclusionary, many policing practices became covert and exclusionary. Without specific legislation there was an increase in arrests and incarceration for offences that non-Indigenous people would be unlikely to be arrested for. This was and still is colloquially known as the offence of 'being Black in a public place' and encompasses the notorious trifecta legislation of offensive language, resist arrest and assault police.⁴

Control and intervention

12.5 Early police involvement in, and control over, the lives of Aboriginal people in states and territories was embodied in legislation such as the *Aborigines Protection Act 1909* (NSW). For many Aboriginal people in New South Wales (NSW), the involvement of police in their lives under the *Aborigines Protection Act* remains within living memory. The genesis of discord between police and Aboriginal communities relates to the role police assumed beyond that of conventional policing. Professor Chris Cunneen and Dr Terri Libesman provided the following examples, noting that police:

- issued rations to Aboriginal peoples; determined quantity and reduction in rations;
- withheld rations where children failed to attend school;
- refused to supply rations to Aboriginal people so as to persuade them to move to another locality or on to an Aboriginal reserve or station;
- determined whether a Aboriginal person was sufficiently unwell to see a doctor;
- patrolled and maintained order on unsupervised Aboriginal reserves;
- recommended on the disposal of reserve land;
- expelled 'trouble makers' from Aboriginal reserves;
- removed children from their parents and sent them to the Board's 'training homes', on the grounds that they were 'neglected' or that they were 14 years of age;

2 Christine Jennett, 'Police and Indigenous Peoples in Australia' (Paper, History of Crime, Policing and Punishment Conference, 9–10 December 1999) 2.

3 ABC Radio, *The 1967 Referendum—50 Years On* <www.abc.net.au/radio/programs/overnights/1967-referendum/8567608>.

4 Jo Kamira, 'Indigenous Participation in Policing: From Native Police to Now—Has Anything Changed?' (Paper, History of Crime, Policing and Punishment Conference, 9–10 December 1999) 5.

- instituted proceedings against Aboriginal parents who took their children away from Aboriginal reserves or from school in an attempt to escape the Board's decision that their children be removed from them and 'trained';
- expelled light-coloured people from Aboriginal reserves and stopped them from returning to their families still living on reserves; and
- instituted proceedings to remove whole Aboriginal communities from certain localities, under section 14 of the Act.⁵

Child removal

12.6 Police were also involved in implementing the policy of removing children from Aboriginal families. A particular example in NSW was s 13A of the *Aborigines Protection Act 1909*, introduced in 1915:

The Board may assume full control and custody of the child of any aborigine, if after due inquiry it is satisfied that such a course is in the interest of the moral and physical welfare of such child. The Board may thereupon remove such child to such control and care as it thinks best.

12.7 This legislation saw the beginning of what became known as the 'the stolen generation'.⁶

12.8 Police were central to the operation of the Aborigines Protection Board:

The Aborigines Protection Board was established to manage reserves and the welfare of the estimated 9000 Aboriginal people living in New South Wales in the 1880s. It was part of the Department of Police and was chaired by the Commissioner of Police. It met weekly in Phillip Street in Sydney. Board members ... developed legislation in the period 1909 to 1935 that restricted the capacity of Aboriginal people to choose where they lived, enjoy education at the same standard offered to the rest of the community, set their own employment contracts, drink alcohol or receive family endowment in cash. After considerable controversy, the Aborigines Protection Board was replaced by the Aborigines Welfare Board in 1940.⁷

12.9 The forced removal of Aboriginal children from their parents was part of a broader policy of assimilation, framed by the conviction that 'the destiny of the natives of aboriginal origin ... lies in their ultimate absorption by the people of the Commonwealth and ... that all efforts be directed to that end'.⁸

12.10 The 1997 *Bringing Them Home Report* of the (then) Human Rights and Equal Opportunity Commission, described the scale of removal across Australia:

Nationally we can conclude with confidence that between one in three and one in ten Indigenous children were forcibly removed from their families and communities in

5 Chris Cunneen and Terri Libesman, *Indigenous People and the Law in Australia* (Butterworths, 1995) 33.

6 Peter Read, 'The Stolen Generations: The Removal of Aboriginal Children in New South Wales 1883 to 1969' (Occasional Paper, Ministry of Aboriginal Affairs (NSW), 1982); Chris Cunneen, 'The New Stolen Generations' (Paper, Australian Institute of Criminology Juvenile Crime and Juvenile Justice Conference, 26-7 June 1997).

7 Find & Connect, *Aborigines Protection Board (1883-1940)* <www.findandconnect.gov.au>.

8 Human Rights and Equal Opportunity Commission, *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (1997).

the period from approximately 1910 until 1970. In certain regions and in certain periods the figure was undoubtedly much greater than one in ten. In that time not one Indigenous family has escaped the effects of forcible removal (confirmed by representatives of the Queensland and WA Governments in evidence to the Inquiry). Most families have been affected, in one or more generations, by the forcible removal of one or more children.⁹

12.11 Margaret Tucker set out her experience of having been removed with her sister from her mother by the police:

I thought: 'Everything will be right now. Mum won't let us go.'

Myrtle was grabbed by her auntie. We had our arms around our mother, and refused to let go. She still had her apron on, and must have run the whole one and a half miles. She arrived just in time, due to the kindness of Mrs Hill. As we hung onto our mother she said fiercely, 'They are my children they are not going away with you.'

The policeman, who was no doubt doing his duty, patted his handcuffs, which were in a leather case on his belt, and which May and I thought were a revolver. 'Mrs Clements,' he said, 'I'll have to use this if you do not let us take these children now.'

Thinking that policeman would shoot Mother, because she was trying to stop him, we screamed, 'We'll go with him Mum, we'll go.' I cannot forget any detail of that moment, it stands out as though it were yesterday. I cannot ever see kittens taken from their mother cat without remembering that scene. It was just sixty years ago.¹⁰

12.12 Dr Christine Jennett has suggested that the long lasting effect of this police involvement in the lives of Aboriginal people has created a legacy of 'deep mistrust/hatred' of police in Aboriginal communities.¹¹

Communication barriers

12.13 During consultation with stakeholders, the ALRC was made aware of the desire of both Aboriginal and Torres Strait Islander communities and police to work together, and of failures in doing so successfully. This experience appears long standing. Commenting on his experiences as Royal Commissioner for the Royal Commission into Aboriginal Deaths in Custody (RCIADIC), the Hon JH Wootten AC QC noted communication barriers between Aboriginal communities and the police:

I was struck, as I went around eastern Australia as a Royal Commissioner, by how often I found police officers who were well motivated, anxious to improve relations with the local Aborigines, but disillusioned and frustrated. They would tell me how they had had great plans but Aborigines would not cooperate, how they had called meetings but Aborigines would not come. Then I would talk to leaders of the Aboriginal community and find them equally anxious for constructive change, but equally disillusioned and frustrated. 'The police will not listen to us', they would say. 'They call meetings at times that suit them in places where they are comfortable; they

9 Ibid 31.

10 Margaret Tucker, *If Everyone Cared: Autobiography of Margaret Tucker MBE* (Grosvenor, 1983) 92–3.

11 Christine Jennett, 'Police and Indigenous Peoples in Australia' (Paper, History of Crime, Policing and Punishment Conference, 9–10 December 1999) 4.

are their meetings, not ours. If we go, they do not want to listen to us, they just want to tell us about their ideas.¹²

12.14 Recommendation 215 of the RCIADIC advocated communication and negotiation between police and Aboriginal and Torres Strait Islander communities:

That Police Services introduce procedures, in consultation with appropriate Aboriginal organisations, whereby negotiation will take place at the local level between Aboriginal communities and police concerning police activities affecting such communities, including:

- a. The methods of policing used, with particular reference to police conduct perceived by the Aboriginal community as harassment or discrimination;
- b. Any problems perceived by Aboriginal people; and
- c. Any problems perceived by police. Such negotiations must be with representative community organisations, not Aboriginal people selected by police, and must be frank and open, and with a willingness to discuss issues notwithstanding the absence of formal complaint.

12.15 In preliminary consultations, the ALRC has heard that the relationship between Aboriginal and Torres Strait Islander peoples and police remains fraught in a number of communities.

Improving responses

Aboriginal women experiencing family violence

Question 12–1 How can police work better with Aboriginal and Torres Strait Islander communities to reduce family violence?

12.16 The prevalence of family violence in Aboriginal and Torres Strait Islander communities has been recognised as a key driver of the incarceration of Aboriginal and Torres Strait Islander men and, increasingly, women.¹³ Family violence within those communities has been described as cyclical and intergenerational.¹⁴ Some stakeholders have suggested that the response by police to family violence in Aboriginal and Torres Strait Islander communities requires significant improvement.¹⁵

12.17 Article 22 of the UN *Declaration on the Rights of Indigenous Peoples* provides Indigenous women with the right to access justice and protection against violence. The

12 Hal Wootten, 'Aborigines and Police' (2003) 16(1) *UNSW Law Journal* 265, 286.

13 PricewaterhouseCoopers, *Indigenous Incarceration: Unlock the Facts* (2017) 23.

14 See, eg, Aboriginal Peak Organisations (NT), Submission No 134 to the Senate Finance and Public Administration References Committee, Parliament of Australia, *Domestic Violence in Australia* (August 2014) 4; Janet Stanley et al, 'Causal Factors of Family Violence and Child Abuse in Aboriginal Communities: Exploring Child Sexual Abuse in Western Australia' (Australian Institute of Family Studies, prepared for the Western Australian Government Inquiry into Responses by Government Agencies to complaints of Family Violence and Child Abuse in Aboriginal Communities, 2002).

15 See, eg, Josephine Cashman, 'Lack of Response Prevents Progress' in *Ending the Violence in Indigenous Communities, National Press Club Address, November 2016* (Centre for Independent Studies) 13, 14.

response of police to Aboriginal and Torres Strait Islander women experiencing family violence is directly relevant to how well this right can be realised.

12.18 United Nations Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, outlines the complexity of the issue:

Discrimination against Aboriginal and Torres Strait Islander women exists on the grounds of gender, race and class and is structurally and institutionally entrenched. This discrimination coupled with the lack of culturally appropriate measures to address the issue, fosters a disturbing pattern of violence against Aboriginal and Torres Strait Islander women ... Family violence is an intersectional concern that overlaps with homelessness, poverty, incarceration, health and removal of children. If not tackled comprehensively, family violence will remain cyclical and undermine efforts to address related issues.¹⁶

12.19 Similarly, United Nations Special Rapporteur on Violence against Women, Dubravka Šimonović, notes:

Aboriginal and Torres Strait Islander women face institutional, systemic, multiple, intersecting forms of discrimination. In addition to sexism and racism, many women also face class-based discrimination due to the low socioeconomic status, as well as social exclusion arising from their regional or remote geographical location. These forms of discrimination and exclusion culminate to create extremely difficult social conditions and manifest themselves in an alarmingly high prevalence of violence against Aboriginal and Torres Strait Islander women who continue to experience higher rates of domestic/family violence and more severe forms of such violence as compared to other women.¹⁷

12.20 Professor Marcia Langton AM notes the scale of the problem of violence and abuse within Aboriginal communities:

In the last reporting period—2014–2015—almost a quarter of the entire Indigenous Australian population over the age of 15 reported that they had been victims of physical or threatened violence in the last 12 months ... Rates of hospitalisation for assault for Indigenous females were: 51 times the non-Indigenous female rate in remote areas and 63 times the non-Indigenous female rate in the NT.¹⁸

12.21 Research has suggested that Aboriginal and Torres Strait Islander females are up to 35 times more likely to experience domestic and family violence than non-Indigenous Australian women¹⁹ and that Aboriginal and Torres Strait Islander women

16 United Nations Special Rapporteur on the Rights of Indigenous Peoples, *End of Mission Statement by the United Nations Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, on Her Visit to Australia* (2017) 13.

17 United Nations Special Rapporteur on Violence against Women, *End of Mission Statement by Dubravka Šimonović, United Nations Special Rapporteur on Violence against Women, Its Causes and Consequences, on Her Visit to Australia from 13 to 27 February 2017* (2017) 6.

18 Marcia Langton, 'If We Don't Stop the Violence, We Have No Chance of Closing the Gap' in *Ending the Violence in Indigenous Communities, National Press Club Address, November 2016* (Centre for Independent Studies) 7, 7.

19 National Plan to Reduce Violence against Women and Their Children, *Third Action Plan 2016–2019 of the National Plan to Reduce Violence against Women and Their Children 2010–2022* (2016) 1, citing Australian Institute of Health and Welfare, *Family Violence among Aboriginal and Torres Strait Islander Peoples* (2006).

and girls are 31 times more likely to be hospitalised due to domestic and family violence related assaults compared to non-Indigenous women and girls.²⁰

12.22 There has been strong criticism of initiatives that seek to address family violence in Aboriginal and Torres Strait Islander communities by minimising the involvement of police. Commenting on the Third Action Plan to Reduce Violence Against Women (implemented as part of the National Plan to Reduce Violence against Women and their Children 2010–2022) Professor Langton has stated:

It recommends that cases of violence against Indigenous women and children should be dealt with, and I quote, through ‘activities that provide wraparound, case-managed support for families, and encourage behavioural change without resorting to police or courts’. Indigenous women who are involved in ending the violence against us are asking this question: Why would the Third National Action Plan to end Violence recommend that police and courts not be involved in the rising tide of violence against us? What about the rule of law, so highly valued by all major political parties and the bedrock of Australian society? I am calling it ‘drinking the Kool Aid’.²¹

12.23 Also commenting on this aspect of the Third Action Plan, Josephine Cashman has suggested:

There is another glaring failure of this third action plan. It recommends that cases of violence against Indigenous women and children should be dealt with, and I quote, through ‘activities that provide wraparound, case-managed support for families, and encourage behavioural change without resorting to police or courts’- How does this divestment of the roles of the police, the courts and allied services respond to the needs of Indigenous victims of criminal violence? Forcing victims to resolve crimes perpetrated against them without going to the police will do nothing but feed the destructive culture of silence that allows criminals to gain power over communities through fear, and further normalise criminal behaviours.²²

12.24 In terms of barriers related to policing, Antoinette Braybrook suggests that Aboriginal victims/survivors face significant impediments to reporting and seeking support for family violence that include:

- lack of understanding of legal rights and options and how to access supports when experiencing family violence.
- poor police responses and discriminatory practices within police and child protection services.
- community pressure not to go to the police in order to avoid increased criminalisation of Aboriginal men.²³

12.25 The ALRC notes that difficulties exist with respect to Aboriginal and Torres Strait Islander people making complaints to police in relation to family violence and abuse. For example, Jacinta Price has said:

20 Productivity Commission, *Overcoming Indigenous Disadvantage: Key Indicators 2011—Report* (Produced for the Steering Committee for the Review of Government Service Provision, 2011) 29.

21 Langton, above n 18, 11.

22 Cashman, above n 15, 17.

23 Antoinette Braybrook, ‘Family Violence in Aboriginal Communities’ 2 *DVRCV Advocate* 20.

I could spend days giving examples of acts of family violence that I have been witness to or learned of within my own family in remote communities ... Where I am related to both victim and perpetrator and where the kinship network demands loyalty to your family members even if they are a perpetrator. One is expected to pretend that these perpetrators are decent human beings and ignore the fact that they have committed acts of physical and sexual violence towards those you love. Because to speak the truth is to create conflict. So from early in life, everyone learns to lie to keep the peace—which manifests into child and youth suicide and the continuation of a destructive cycle. I have given just a glimpse of examples of violence that some Aboriginal women experience. The number of deaths due to homicide that have impacted my family is in the hundreds. And in the NT alone for Aboriginal families it is in the thousands. But this epidemic is not only occurring in remote areas but within urban Aboriginal communities as well. The code of silence that victims live in blankets both remote and urban Australia.²⁴

12.26 Dr Hannah McGlade suggests there is a lack of police responsiveness to the experience of Aboriginal women experiencing violence, pointing to the failing of police that led to the death of Aboriginal woman, Ms Dhu:

Ms Dhu was arrested by police and taken into police custody on 2 August 2014 for reasons related to unpaid fines. Young Aboriginal women, who typically live in poverty, are disproportionately affected by the policy.

Ms Dhu was pronounced dead on 4 August 2014 only two days after being taken into custody. She was a victim of domestic violence in need of medical help—but to the police she was only an offender, an Aboriginal woman jailed for unpaid fines.²⁵

12.27 The ALRC invites stakeholder comment on how police can work better with Aboriginal and Torres Strait Islander communities to reduce family violence.

Better police responses to communities

Question 12–2 How can police officers entering into a particular Aboriginal or Torres Strait Islander community gain a full understanding of, and be better equipped to respond to, the needs of that community?

12.28 The ALRC has heard from various stakeholders during consultations of inadequate training or readiness of police entering into often remote and sometimes challenging Aboriginal communities. This feedback echoes many previous reports.

24 Jacinta Price, 'Violence and Silence' in *Ending the Violence in Indigenous Communities, National Press Club Address, November 2016* (Centre for Independent Studies) 3, 4.

25 Hannah McGlade, 'The Causes and Consequences of Violence against Indigenous Women and Girls, Including Those with Disabilities' (Panel Discussion, Palais Des Nations, Geneva, 20 September 2016).

12.29 Recommendation 228 of the RCIADIC provided that

police training courses be reviewed to ensure that a substantial component of training both for recruits and as in-service training relates to interaction between police and Aboriginal people. It is important that police training provide practical advice as to the conduct which is appropriate for such interactions. Furthermore, such training should incorporate information as to:

- a. The social and historical factors which have contributed to the disadvantaged position in society of many Aboriginal people;
- b. The social and historical factors which explain the nature of contemporary Aboriginal and non-Aboriginal relations in society today; and
- c. The history of Aboriginal police relations and the role of police as enforcement agents of previous policies of expropriation, protection, and assimilation.²⁶

12.30 The 1986 ALRC report into the recognition of customary laws suggested an improvement in relations between Aboriginal people and the police required an increased understanding of each group by the other that could be achieved through better training and education for police officers.²⁷

12.31 The Victorian Office of Police Integrity found that while Victoria Police had a strong commitment to addressing issues within Aboriginal communities ‘more needs to be done to build a better understanding of Koori culture and local Koori issues to ensure police who are working with Koori communities can provide a culturally appropriate response to their needs’.²⁸

12.32 The Office went on to recommend that ‘Aboriginal and Torres Strait Islander cultural training is desirable for all police but should be a prerequisite for all police prior to deployment to Policing Service Areas where there is a significant Koori population’.²⁹

12.33 Similarly, a 2010 independent review of policing in remote Aboriginal communities in the Northern Territory suggested:

[I]nitiatives should include ensuring that members who are selected for remote postings are provided with appropriate and adequate hand over/takeover time on arrival at the community, introductions to community elders and leaders, cultural training by community members including understanding of significant ceremonies and ceremonial locations, mentoring by other staff with proven prior experience in the location, appropriate employment conditions, appropriate supervision and

26 Commonwealth, Royal Commission into Aboriginal Deaths in Custody, *National Report* (1991) Vol 4 rec 228.

27 Australian Law Reform Commission, *Recognition of Aboriginal Customary Laws*, Report No 31 (1986) [873]–[874].

28 Office of Police Integrity Victoria, *Talking Together—Relations between Police and Aboriginal and Torres Strait Islanders in Victoria: A Review of the Victoria Police Aboriginal Strategic Plan 2003–2008* (2011) 14.

29 *Ibid.*

management support, and recognition of their completed, satisfactory service at remote locations in future postings.³⁰

12.34 The ALRC seeks comment about how police newly entering into a particular community might be able to develop an understanding of the needs of that Aboriginal and Torres Strait Islander community and be better equipped to deal with and respond to those needs.

Cooperative initiatives

12.35 A number of cooperative initiatives between police and the local community have been introduced in Redfern, a suburb of Sydney, since 2009. Historically, the relationship between police and Aboriginal people in Redfern has been particularly difficult. Professor Cunneen undertook a study of the relations between the police and Aboriginal people in Redfern in 1990, a time of major discord.³¹ Professor Cunneen concluded 'there has been a continuity in complaints concerning police activities in Redfern for the 20 years between 1970 and 1990. Many of those complaints related to discriminatory policing practices and the excessive use of force'.³²

12.36 A riot in Redfern in February 2004 followed the death of Thomas 'TJ' Hickey.³³ Although an inquest found TJ's death was a 'freak accident',³⁴ the Hickey family and others continue to blame the police for TJ's death.³⁵

12.37 In 2009, Redfern Police, led by Local Area Commander Detective Superintendent Luke Freudenstein, Aboriginal community leaders in Redfern and Tribal Warrior Aboriginal Corporation, instigated the 'Clean Slate Without Prejudice' program. In 2016, the 'Never Going Back' program was implemented in Redfern by Redfern Police, Aboriginal community leaders in Redfern and Tribal Warrior with the additional assistance of Long Bay Correctional Complex General Manager Pat Aboud.

12.38 Tribal Warrior describes these programs:

Clean Slate Without Prejudice program ... consists of a boxing and fitness program at the National Indigenous Centre of Excellence gymnasium in Redfern. It also involves the active participation of community leaders and police officers from the Redfern Local Area Command. The Never Going Back program targets Aboriginal inmates who are nearing the completion of their custodial sentences. They are collected from Long Bay Correctional Centre three times a week at to attend boxing with Clean Slate Without Prejudice and receive training for employment.³⁶

30 The Allen Consulting Group, *Independent Review of Policing in Remote Indigenous Communities in the Northern Territory: Policing Further into Remote Communities* (2010) 78.

31 Chris Cunneen, *Aboriginal-Police Relations in Redfern: With Special Reference to the 'Police Raid' of 8 February 1990* (Human Rights and Equal Opportunity Commission, 1990) 1.

32 Ibid 8.

33 ABC News, *Fifty Police Injured in Redfern Riot* <www.abc.net.au/news/>.

34 State Coroner's Office, *Report by the NSW State Coroner into Deaths in Custody/Police Operations 2004* (2005) 89.

35 Rebecca Barrett, *TJ Hickey's Family Seeks Apology 10 Years after Redfern Riot Death* (14 February 2014) ABC News <<http://www.abc.net.au/news/>>.

36 Tribal Warrior, *Gold Award for Tribal Warrior Mentoring Programs* <www.tribalwarrior.org/>.

12.39 Both programs received Australian Crime and Violence Prevention awards in 2016, a recognition of good practice in the prevention or reduction of violence and other types of crime in Australia.³⁷

12.40 A 2016 review of the programs by Professor Karl Roberts found the programs were making a positive contribution, noting the following effects:

- reductions in reported crime in the area, particularly robbery and burglary;
- increased community confidence in police; and
- enhanced resilience of communities and ‘at risk’ groups.³⁸

12.41 Roberts suggested that the principles underlying the success of the program were:

1. The success of the Redfern programs is underpinned by a procedurally just approach towards the community. This is characterised by treating community members with respect, giving them a clear voice that is listened to by police in police-community interactions, giving community members explanations for police activity and decisions, and utilizing reliable and fair approaches towards community members. This underpins the development of trust.
2. Enhancing trust between police and community has been central to the improvement in police-community relations and cooperation with police.
3. Police familiarity with some of the mechanisms of social influence is likely to be useful in identifying leaders, community collaborators and designing programs that will have the greatest influence upon changing attitudes and behaviour within communities.³⁹

Annual public reporting

Question 12–3 Is there value in police publicly reporting annually on their engagement strategies, programs and outcomes with Aboriginal and Torres Strait Islander communities that are designed to prevent offending behaviours?

12.42 During stakeholder consultations the ALRC has heard of significant work being undertaken at high levels within state and territory police forces in designing and implementing strategies aimed at reducing offending and recidivism within Aboriginal and Torres Strait Islander communities. The ALRC was also made aware of both large and small programs being undertaken in individual local area commands with Aboriginal and Torres Strait Islander communities. However, information about such programs is not easily accessible through annual police reports.

37 Australian Institute of Criminology, ‘Two NSW Police Projects Recognised for Reducing Crime in the Redfern Area’ (Media Release, 23 November 2016) 2016.

38 Karl Roberts, *Review of Two Community Engagement Programs in Redfern Local Area Command New South Wales Police* (2016) 4–5.

39 Ibid 5–6.

12.43 For example, performance measures to be implemented by the NSW Police Force within their Aboriginal Strategic Direction 2012–2017 provide only for internal reporting and do not require public reporting.⁴⁰

12.44 While the ALRC is not aware of any studies concerning the impacts of public reporting on police strategies and programs, an examination of the impact of public reporting in the health care sector suggests significant benefits.⁴¹ The Australian Institute of Health and Welfare suggests:

Evidence from a number of other countries shows that public reporting on the performance of health care organisations drives improvements in patient care and health systems. Publishing comparative data is important for transparency and accountability, in that it enables the community to see how their local services are performing.⁴²

12.45 The ALRC seeks comment from stakeholders so that it can consider whether annual reporting may:

- allow for members within a particular police force to be made aware of all programs operating within a state or territory;
- encourage better engagement and understanding of programs within Aboriginal communities;
- assist those undertaking research to easily identify police programs and strategies;
- reveal where police are not engaging with a particular Aboriginal or Torres Strait Islander community that has high rates of offending behaviours and recidivism; and
- encourage best practice.

Police programs

Question 12–4 Should police that are undertaking programs aimed at reducing offending behaviours in Aboriginal and Torres Strait Islander communities be required to: document programs; undertake systems and outcomes evaluations; and put succession planning in place to ensure continuity of the programs?

40 NSW Police Force, *Aboriginal Strategic Direction 2012–2017* (2015) 16.

41 Bureau of Health Information, *Public Reporting Improves Healthcare* (2010); Ketan Sharma et al, 'Public Reporting of Healthcare Data: A New Frontier in Quality Improvement' (2012) 97(6) *Bulletin of the American College of Surgeons* 6; McKinsey's Health Systems and Services Practice, *Transparency—the Most Powerful Driver of Health Care Improvement: Transparency about Performance May Be a Key Precondition for Improving Service Delivery and Productivity in Health Care* (2011).

42 Australian Institute of Health and Welfare, *Impacts of Local Level Public Reporting* <www.aihw.gov.au/health-performance/impacts-of-local-level-public-reporting/>.

12.46 Many state and territory police forces have implemented programs aimed at reducing offending behaviour and recidivism of Aboriginal and Torres Strait Islander persons. Programs are rarely, if ever, documented in writing or evaluated. The ALRC seeks input from stakeholders about whether the programs should be documented; have succession plans in place; and be evaluated.

Succession planning

12.47 During consultations with stakeholders, the ALRC heard concerns about succession planning within police programs when key persons retire or move on.

12.48 The ALRC was made aware, for example, that the Tackling Violence program, conducted by the NSW Police Force for several years, had ceased for a period upon the retirement of a key police officer who had driven the program. The ALRC understands the program has now recommenced.

12.49 The program was described in the NSW Police Force Aboriginal Strategic Direction 2012–2017 as using

men and boys' love of rugby league to encourage them to be leaders and role models in the campaign against domestic violence in their communities. Tackling Violence is a mainstream program that is led by Aboriginal people to change attitudes about domestic violence. Participating teams work in partnership with Police Domestic Violence Region Coordinators, Domestic Violence Liaison Officers, Aboriginal Community Liaison Officers, Aboriginal Coordination Team and Local Area Commands.⁴³

Systems and outcomes evaluations

12.50 The ALRC is concerned that where there is a failure to undertake systems and outcomes evaluations of police programs, the success or otherwise of particular programs cannot be measured. During stakeholder consultations, the ALRC was made aware that there were challenges in supporting arguments for new funding or continuation of programs where evaluation of a police program did not exist.

Reconciliation Action Plans

Question 12–5 Should police be encouraged to enter into Reconciliation Action Plans with Reconciliation Australia, where they have not already done so?

12.51 The RCIADIC suggested the importance of reconciliation to the involvement of Aboriginal and Torres Strait Islander peoples in the criminal justice system and recommended:

That all political leaders and their parties recognise that reconciliation between the Aboriginal and non-Aboriginal communities in Australia must be achieved if community division, discord and injustice to Aboriginal people are to be avoided. To

⁴³ NSW Police Force, *Aboriginal Strategic Direction 2012–2017* (2015) 18.

this end the Commission recommends that political leaders use their best endeavours to ensure bi-partisan public support for the process of reconciliation and that the urgency and necessity of the process be acknowledged.⁴⁴

12.52 Reconciliation Australia (RA) has described the importance of reconciliation:

We can't change the past but we can learn from it. We can make amends and we can ensure mistakes are never repeated. Our nation's past is reflected in the present and unless we can heal historical wounds, they will continue to play out in our country's future. Reconciliation can only truly evolve when the Australian community and our major institutions acknowledge and repair the wrongs of the past, understand their effects—and make sure that these wrongs, or similarly damaging actions, are not occurring today, and are never repeated in the future.⁴⁵

12.53 The ALRC understands that, while many state and territory government bodies and organisations associated with the criminal justice system have adopted Reconciliation Action Plans (RAPs), few state or territory police forces currently have a RAP.

12.54 RAPs are a type of strategic plan which provide a set of actions that a particular organisation will undertake to achieve reconciliation with Aboriginal and Torres Strait Islander peoples.

12.55 RAPs are designed and implemented with input from RA, the national expert body on reconciliation in Australia.⁴⁶

12.56 RA has outlined the contribution that RAPs can make to reconciliation:

The Reconciliation Action Plan (RAP) program contributes to achieving reconciliation by developing relationships, respect and opportunities with Aboriginal and Torres Strait Islander peoples. RAPs help workplaces to facilitate understanding, promote meaningful engagement, increase equality and develop sustainable employment and business opportunities.⁴⁷

12.57 RAPs contain a list of key objectives (or 'Actions') and assign the task of delivering those objectives to individuals with time lines for delivery. Organisations that have adopted RAPs must report to RA as to the outcome of their objectives.

12.58 The ALRC seeks input about whether the adoption of RAPs by state and territory police may assist in reducing Aboriginal and Torres Strait Islander incarceration.

44 Commonwealth, Royal Commission into Aboriginal Deaths in Custody, *National Report* (1991) vol 5, rec 339.

45 Reconciliation Australia, *State of Reconciliation in Australia: Summary* (2016) 14.

46 Reconciliation Australia, *About Us* <<https://www.reconciliation.org.au/about/>>.

47 Reconciliation Australia, *RAP Impact Measurement Report 2015* (2016) 2.

Employment strategies

Question 12–6 Should police be required to resource and support Aboriginal and Torres Strait Islander employment strategies, where not already in place?

12.59 A key recommendation of the RCIADIC was the employment of more Aboriginal and Torres Strait Islander police officers, especially women, in part, as a strategy to reduce the over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system.⁴⁸

12.60 Employment strategies can be successful in improving employment and retention rates of Aboriginal and Torres Strait Islander peoples in organisations. GenerationOne has suggested that an Aboriginal and Torres Strait Islander employment strategy provides a ‘blueprint for developing, implementing and maintaining Indigenous employment actions’.⁴⁹

12.61 Matthew Gray, Boyd Hunter and Shaun Lohar have suggested that key elements for increasing Aboriginal and Torres Strait Islander employment include:

- Increasing the skill levels of Indigenous Australians via formal education and training.
- Pre-employment assessment and customised training for individuals in order to get Indigenous job seekers employment-ready.
- Non-standard recruitment strategies that give Indigenous people who would be screened out from conventional selection processes the opportunity to win jobs.
- The provision of cross-cultural training by employers.
- Multiple and complementary support mechanisms to improve the retention of Indigenous employees is crucial. These may include:
 - ongoing mentoring and support;
 - flexible work arrangements to allow Indigenous employees to meet their work, family and/or community obligations;
 - provision of family support;
 - dealing with racism in the workplace via initiatives such as the provision of cross-cultural training.⁵⁰

48 Commonwealth, Royal Commission into Aboriginal Deaths in Custody, *National Report* (1991) vol 4, rec 229.

49 GenerationOne & Reconciliation Australia *Everybody’s Business: A Handbook for Indigenous Employment* (2013) 6.

50 Matthew Gray, Boyd Hunter and Shaun Lohar, ‘Increasing Indigenous Employment Rates’ (Issues Paper 3, Closing the Gap Clearinghouse, 2012) 1–2.

12.62 Then NSW Police Commissioner Andrew Scipione APM suggested:

Increased Aboriginal employment within the NSW Police Force improves the participation of Aboriginal people across a range of policing issues and builds community relationships, cooperation and trust. Both our organisation and our Aboriginal communities benefit in a range of ways from a greater understanding by police of Aboriginal issues.⁵¹

12.63 It has been acknowledged that the employment of Aboriginal and Torres Strait Islander peoples within police forces has positive outcomes. For example, in the NT, Aboriginal Community Police Officers perform a range of duties including liaising with Aboriginal communities, and contributing to effective Community Safety Action Plans.⁵² It has been noted that Aboriginal Liaison Officers within the NT police force have positively contributed to liaising with victims of crime, assisting with general intelligence and identifying cases of emerging disturbances or community safety issues, strengthening community engagement and providing a greater focus on engaging with school aged children to deliver safety messages among a variety of other functions.⁵³

12.64 Various police forces have undertaken training and employment initiatives as a means of bolstering Aboriginal and Torres Strait Islander police numbers. For example, the NSW Police Force introduced a specialised training program for those Aboriginal and Torres Strait Islander peoples wishing to join the police force. The Indigenous Police Recruitment Our Way Delivery (IPROWD) program (developed by the NSW Police Force and TAFE NSW) aims to assist Aboriginal and Torres Strait Islander people in gaining skills, qualifications and confidence to successfully apply for a position within the NSW Police Force.⁵⁴

12.65 Most of the state and territory police forces make provision for employment of Aboriginal and Torres Strait Islander peoples through a range of initiatives, while the NSW Police Force has a specific Aboriginal employment strategy.⁵⁵

12.66 The ALRC seeks comment about whether employment strategies might increase the number of Aboriginal and Torres Strait Islander peoples employed in state and territory police forces, and how employment strategies might help to reduce the incarceration rates of Aboriginal and Torres Strait Islander peoples.

51 NSW Police Force, *Aboriginal Employment Strategy 2015–2019* (2015).

52 Northern Territory Police, Fire & Emergency Services, *2015–16 Annual Report* (2016) 28.

53 *Ibid.*

54 NSW Police Force, *Aboriginal Recruitment* <www.police.nsw.gov.au/recruitment/the_career/atsi>.

55 *Ibid.*