## 2. QUEENSLAND

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2.1 Queensland Government Overarching Indigenous Strategic Policy Framework

There have been a series of policy frameworks introduced by the Queensland Government over recent years relating to Aboriginal and Torres Strait Islander social issues, including issues arising within the criminal justice system. The major relevant frameworks are as follows.

2.1.1 Meeting Challenges, Making Choices: the Queensland Government’s response to the Cape York Justice Study (April 2002)

In July 2001, Tony Fitzgerald examined the extent of social problems in Cape York (including Indigenous offending as a social issue) and recommended strategies to support the ongoing development of partnerships between the Government and Indigenous communities. Fitzgerald finalised his review on Cape York in November 2001 in the Cape York Justice Study Report. Following release of this report, Meeting Challenges, Making Choices: the Queensland Government’s response to the Cape York Justice Study (April 2002) was developed by the Department of Premier and Cabinet. The MCMC initiative was not restricted to Cape York, involving, at the time of formulation, nineteen other ATSI communities. The immediate focus of MCMC was to arrest the level of alcohol abuse and related violence to improve quality of life. One of the key areas focused upon by MCMC was crime and justice, with relevant strategies including consideration by Government of alternative sentencing options, establishment of Community Justice Groups (CJGs) on communities and an Indigenous Justice of the Peace (JP) program. Government Champions (linking CEOs of Government agencies with nominated communities) and Negotiation Tables were also (further) developed at this time – two significant Indigenous community engagement initiatives which have addressed criminal justice issues, inter alia.

2.1.2 Partnerships Queensland: Future directions framework for Aboriginal and Torres Strait Islander Policy 2005-10 (PQ)

Partnerships Queensland is a framework which sought to integrate and consolidate all (then) current ATSI policies. In this sense, PQ does not replace existing Queensland Government policies; rather, it aligns them under a common set of goals and mechanisms for change. PQ has four, inter-connected key goals, including ‘safe places’ (with some focus therein upon community-based approaches to law and justice and crime.

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1 Fitzgerald, J., Siggins, I. and Zorzi, C. (2001), Cape York Justice Study, http://www.communities.qld.gov.au/community/publications/capeyork.html. See also the earlier Cape York Partnerships: Some Practical Ideas (May 2000). This framework was directed towards improving the quality of life for the people of Cape York, covering economic and social development, community development and strengthening families. It advocated local, community-based approaches to overcoming disadvantage in a way that fostered community respect and cohesion. Law and order issues and crime prevention were a major component of the partnerships concept.
prevention), with relevant initiatives and strategies falling under one or more of these goals. PQ’s goals are to be achieved through implementation of a number of policy initiatives, such as the Aboriginal and Torres Strait Islander Justice Agreement (see below), Queensland Government Coordinated Response to Homelessness 2005–2009, Volatile Substance Misuse (VSM) Strategy (Safe Places), and MCMC. Details are also provided about existing initiatives contributing to the four key goals of PQ. With respect to the goal of ‘safe places’, relevant initiatives include youth conferencing, an expansion of the Drug Court to North Queensland, the Indigenous JP magistrate courts and the Murri Court. Further, the PQ Performance Framework headline indicators include contact with juvenile and adult justice systems (diversions, court appearances, court outcomes and detentions) and progression from the juvenile system to the adult system; re-offending; and deaths in custody.  

In 2006, the Partnerships Queensland Progress Report was released, indicating progress in relation to each of the key goals of PQ. In terms of progress for ‘safe places’, relevant initiatives emphasised included continued operation of the Murri Court, Indigenous JP programs, enhanced youth justice conferencing and community-based services, and further support for CJGs. Further, a new Probation and Parole Service was introduced, with offices on ATSI communities (allowing supervision and program delivery at a local level); and, in order to address recidivism, the Post Release Employment Assistance Program had been funded, with Indigenous offenders as a key focus. 

2.1.3 Queensland Aboriginal and Torres Strait Islander Justice Agreement (2000)

The Aboriginal and Torres Strait Islander Justice Agreement (Justice Agreement) was developed by the Aboriginal and Torres Strait Islander Advisory Board (ATSIAB) and the Queensland Government. The Justice Agreement was one of the first such agreements to be settled after the Indigenous and Ministerial Summits of 1997. Its long-term aim is to reduce Indigenous contact with the criminal justice system to parity

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2 See accompanying Partnerships Queensland Future Directions Framework (Baseline Report)(2005-2010), against which progress will be measured.

3 This was followed by the Indigenous Partnership Agreement (IPA) 2007-2011 was signed in July 2007 by the Queensland Government and 15 ATSI communities. It is directed towards building effective partnerships between Government and communities to create positive and sustainable change for ATSI Queenslanders. The IPA covers a broad range of areas within which Government and communities might collaborate. These areas (the ‘scope’ of the IPA) include community safety, law and justice, setting out respective commitments of Government and community leaders with respect to these areas. A process is also established of ensuring that the partnership approach of the IPA is implemented on the ground through Local Indigenous Partnership Agreements (LIPAs) (which serve as Action Plans for the IPA) and improved Negotiation Tables.

4 The Justice Agreement was foreshadowed in Towards a Queensland Government and Aboriginal and Torres Strait Islander Ten Year Partnership (the Ten Year Partnership) (2000) (along with other state level agreements with the Indigenous community in a range of areas).
with the non-Indigenous rate. The outcome by 2011 is to reduce by 50% the rate of ATSI peoples incarcerated in the Queensland criminal justice system. Its success might be more specifically measured by reference to a reduction in ATSI arrests and in the number of ATSI persons coming before courts and receiving custodial sentences; and an increase in formal cautions (as opposed to other forms of contact with the criminal justice system) and in the proportion of ATSI peoples receiving community corrections (as opposed to custodial sentences).

Details of implementation were initially set out in the *Justice Agreement Action Plan 2000-01* (originally to be reviewed annually, but later implementation and performance measurement was incorporated under the PQ framework (see above)) and to be based on the Agreement’s guiding principles and strategic direction. The 2000 Action Plan identified twenty supporting outcomes (with corresponding outcome indicators; key strategies for achieving the supporting outcomes; performance measures; and information about related programs, services and initiatives; as well as agencies responsible for implementation). Relevant outcomes were as follows:

*Availability and use of alternatives to court that are appropriate for Aboriginal and Torres Strait Islander offenders.*

Indicators included an increase in the use of cautions, community conferences, mediation and summonses vs arrests proportionate to that for non-ATSI offenders. Key strategies included the establishment, monitoring and evaluation of policies and programs which maximise the use of alternatives; and negotiation of protocols with, and encouraging participation of, local respected persons, elders and Community Justice Groups (CJGs) in cautioning and juvenile justice programs; as well as promoting culturally appropriate dispute resolution processes. Performance measures included the number and percentage of use of alternatives; the number of protocols developed and of cautions and juvenile justice programs set up utilising elders, respected persons or CJGs; and the number of mediations and conferences held involving ATSI peoples and number of ATSI mediators on panels.

*Effective diversionary strategies.*

Indicators included a reduction in the number of arrests of ATSI people for alcohol-related public order offences. Key strategies include developing alternatives to remand in custody (performance measure: establishing brokerage and community placement schemes to reduce the number of young people (particularly ATSI youth) remanded in custody); supporting effective operation of diversionary activities (performance measure: number of Diversionary Centres); and the provision of safe diversionary facilities for ATSI women at risk of alcohol related public order offences.

*Availability and use of community-based sentencing options that are appropriate for Indigenous people.*

Indicators included the number of community-based sentencing options (appropriate for
ATSI offenders); percentage of these programs available in geographical areas with high numbers of ATSI offenders; and percentage of ATSI offenders on community-based orders proportionate to local rates of ATSI offending. Strategies included reviewing and promoting community-based options; strengthening community service as an opportunity to make reparation; and providing alternative enforcement mechanisms for payment of fines and promotion of the use of these alternatives. Performance measures included the number of ATSI communities providing advice to the court on appropriate community-based sentencing options; and the number of ATSI offenders participating in community service.

**Safety and security for Indigenous people in custody.**

Indicators included police watchhouses and correctional facilities meeting the RCIADIC recommendations and a decrease in the number of reported assaults on ATSI people in custody. Strategies included continuing to upgrade all police watchhouses and adult correctional facilities and providing ongoing training to police and staff at correctional facilities.

**Effective rehabilitation and community reintegration for Indigenous offenders.**

Indicators included the proportion of ATSI offenders under either a detention order or a community-based order completing approved rehabilitation courses; the proportion of total ATSI prisoners and young detainees who participated in primary, secondary or tertiary education and/or completed a vocational training program while under an order; and the percentage in custody who participated in a gradual release program. Key strategies included coordinating the provision of relevant programs based on assessments of offenders’ risks and needs and provision of options for staged release and re-integration into the community. Performance measures included the number of culturally appropriate programs and services that targeted the addressed needs of ATSI peoples, and the number of ATSI people participating in re-integration activities, for instance.

**Improved access to justice and just outcomes for Indigenous people.**

Indicators included the number of courts constituted by local Indigenous JPs in remote communities, and the number of sentencing submissions provided by CJGs to courts. Key strategies included assisting the courts to hold hearings in remote locations; establishing additional Magistrate’s courts constituted by ATSI JPs; providing more opportunity for local community input into the court processes; and more effective and appropriate sentencing. Performance measures included the number of communities where circuit court sits, of new courts constituted by JPs, and of staff trained in dealing with submissions from CJGs.

**Effective Indigenous community input into sentencing offenders.**

Indicators included the number of ATSI participants completing training courses related to the sentencing process and the percentage of sentencing options submitted by ATSI
Justice Groups and incorporated into sentences imposed.

2.1.4 Queensland Aboriginal and Torres Strait Islander Justice Agreement Progress Report January 2002-June 2003 (Justice Negotiation Group)

The Justice Negotiation Group (JNG) had been required under the Justice Agreement to monitor and review the Agreement’s Action Plan. This was the second review completed by the JNG, and this Report sets out, in some detail, information on progress in relation to all twenty supporting outcomes of the Justice Agreement.

Key achievements included the following, according to the JNG:-

- the Local Justice Initiatives Program continued to fund CJGs, which undertook a range of activities, including providing sentencing advice to courts when an Indigenous offender was involved;
- development of a training manual and video materials for CJGs focusing on leadership, planning and Indigenous community input into the sentencing process in courts;
- training of ATSI JPs to convene Magistrates Courts in remote areas;
- under MCMC, additional funding was allocated to support the establishment of statutory CJGs;
- expansion of the Drug Court for adult offenders to North Queensland; and
- the implementation of CEO’s Committees across Government, particularly the CEO’s Law and Justice Committee and the CEO’s Human Services Committee, have been important mechanisms in implementing the Justice Agreement. Under the auspices of the Law and Justice Committee - Indigenous Over-representation sub-committee, research was undertaken on developing deferred sentencing/diversionary options, focusing on Indigenous traffic offences.

Statistical information was also provided in relation to incarceration (the percentage for Indigenous adult offenders had remained fairly constant between December 2000 and June 2003 (23% - 25%); and for juveniles too (50% to 60%)).

2.1.5 Cunneen, C., Evaluation of the Queensland Aboriginal and Torres Strait Islander Justice Agreement (2005) (Institute of Criminology, University of Sydney)

This 2005 Institute of Criminology review was the first independent evaluation of the Justice Agreement.

In the evaluation, statistical information was provided in relation to rates of Indigenous contact with the justice system during the period (to date) of the Justice Agreement. In terms of the Justice Agreement measures of success, there has been a reduction in Indigenous young people sentenced to detention between 2000-01 and 2003-04. However, this was overshadowed by the growing remand population. The most significant impact on Indigenous detention rates was to be achieved through programs and policies aimed at reducing the remand population. Further specific research needs to
be done in relation to the reasons for remand for Indigenous young people, so that programs can be developed to target these causes. Preliminary data suggested that only a small proportion of those who are remanded in custody actually received a custodial sentence. Further, Queensland has a rate of Indigenous over-representation in adult prison which is among the lowest in the nation. In terms of the Justice Agreement, there were positive signs that a steady increase in the rate of Indigenous imprisonment in Queensland had been halted and there had been a decline in the rate since 2002 until the (then) most recent prison census data (2004). Admission data also reflected a decline in Indigenous numbers from a high point in 1999-2000. However, there had been an upward spike in 2004-05 over the previous three years.

Major points raised in the evaluation may be summarised as follows:-

- Some key strategies which would reduce over-representation were already in place, but needed substantial and immediate resourcing in order to achieve the outcome of reducing Indigenous incarceration rates by 50% by 2011 (including strategies such as conditional bail and bail support; diversionary programs for homelessness and alcoholics; Indigenous offender programs; community-based supervision in remote and rural areas for adult and juvenile offenders; and CJGs, Murri Courts, and JPs (Magistrates Courts)).

- A number of other strategies required serious consideration if goals relating to incarceration rates were to be met (including drug and alcohol courts and diversion designed to enhance Indigenous participation; release of offenders to Indigenous-run programs; and development of Indigenous-specific residential alternatives).

- The most significant failings within relevant departments included failure by the Departments of Communities (DOC) and of Corrective Services (DCS) to ensure availability of supervision for non-custodial sentencing options in Indigenous communities; of DATSIP to properly support CJGs; and of the Department of Justice and Attorney General (DJAG) to support the Murri Courts. The under-resourcing of the Murri Court and other important initiatives was significant.

(a) Assessment of progress under each Outcome Areas Relevant to Sentencing and Punishment

*Effective diversionary strategies.*

Relevant initiatives included development of the Diversion from Custody Program (DATSIP); conditional bail and bail support programs (DOC); and the drug diversion program (Queensland Police Service (QPS)). The DOC initiatives relating to bail were found to be largely successful, with good levels of Indigenous participation and completion. They needed, however, to be expanded to deal effectively with the size of the Indigenous remand population (at a crisis level for Indigenous young people).

*Understanding by Indigenous people of rights, legal procedures and forms of*
Relevant initiatives included JP magistrate courts in remote communities (14 communities at the time of writing) (DJAG); Murri Chaplains Group visiting facilities; ATSI Counsellors and/or Family Support Officers at secure facilities; Indigenous official visitors; and a trial free prisoner telephone access to the Legal Aid Service (DCS). It was difficult to ascertain whether these initiatives actually addressed the desired outcome area. It was suggested that an independent evaluation of JP Magistrates Courts (with respect to recidivism, culturally appropriate processes and other community justice issues) must be undertaken.

Availability and use of community-based sentencing options appropriate for Indigenous people.

This outcome area had not been met in a meaningful way, although the following initiatives were relevant. DOC noted the availability from July 2003 of a new intensive supervision order (ISO) for young offenders aged 10-12 years (which is aimed at diverting young offenders with three or more prior convictions from becoming recidivist offenders). However, evidence suggested that the ISOs were rarely used and had no significant impact in relation to Indigenous incarceration rates. Other initiatives included use of the SPER system for fine repayments through Centrelink payments and from CDEP. The data made available from DCS showed that Indigenous offenders were less represented on community corrections than they were in the prison population. There was widespread concern about the lack of sentencing alternatives in remote areas. The DCS *Strengthening Community Safety through Managing Growth in Prisoner Numbers* project was directed to improving advice to courts so that low risk offenders could be diverted from custody and be appropriately supervised in the community. DCS was preparing a business plan to improve the provision of community corrections supervision to all areas of Queensland. The aim was to create a sustainable community corrections presence in rural and remote Indigenous communities. DOC was also expanding Youth Justice Service Centres.

Safety and security for Indigenous people in custody.

Relevant initiatives included cell visitor schemes (through QPS and DATSIP); cross-cultural awareness and staff accountability through a DCS Code of Conduct; and the Secure Care Program, with a risk management approach to care, supervision and rehabilitation of young people in detention (DOC). It was recommended that relevant state authorities continue to monitor deaths in custody.

Effective rehabilitation and community reintegration for Indigenous offenders.

Relevant initiatives included programs provided to those in custody by Queensland Health; Indigenous Programs Support Officers employed at youth detention centres liaising with community organisations for the provision of culturally appropriate programs and services; visitor groups (Elders, Justice Group and Men’s Group); and
Indigenous Transition Officers assisting with post-release needs (DOC). For DCS, initiatives included Offender Risk/Needs Inventory (to assess Indigenous prisoners); vocational and educational training, with Indigenous Cultural Development Officers determining appropriate training needs; and relevant programs such as Ending Family Violence and Indigenous Sex Offender Program. It was suggested that it was necessary for DCS to maintain its stated commitment to developing culturally appropriate rehabilitation programs.

*Increased participation by Aboriginal and Torres Strait Islanders in the administration of justice, including developing their own solutions.*

Relevant initiatives included CJGs, Government Champions and Negotiation Tables (DATSIP); the DPP outreach program and Murri Court (DJAG); and *Strengthening Community Safety through Managing the Growth of Prisoner Numbers* project recommendations (in relation to the local operations of community corrections, which will include the recruitment of local (ATSI) people) (DCS).

*Greater recognition of Aboriginal and Torres Strait Islander customary practices.*

Relevant initiatives included CJGs, elders involved in the justice system, and Murri Court. DATSIP noted that ‘the CEO Law and Justice Committee commenced a review of existing non-custodial correction processes such as probation, bail, community service orders, fine option orders and deferred sentencing, and examined options for restorative justice processes including circle sentencing, customary practices and other diversionary initiatives for consideration’. It was unknown what the outcome of the review had been, or whether it had been completed. It was noted in the evaluation that Queensland was at that time the only State with a large Indigenous population living on traditional lands that had not initiated in recent years an inquiry into the recognition of customary law. The Murri court, JPs (Magistrates Courts) and CJGs did go some way to providing for Indigenous input into sentencing. However, this was considered to not be equivalent to understanding the demands for the recognition of customary law.

*Effective Indigenous community input into sentencing offenders.*

Relevant initiatives included CJGs, elders involved in the justice system, Murri Court.

(b) A number of specific issues were taken up in the evaluation, and discussed in more detail, including the following.

*Community Justice Groups*

The CJGs pre-date the *Justice Agreement*, and began as community initiatives on Palm Island and Kowanyama. A 1999 review of this initiative found CJGs to be successful and innovative in addressing issues within the justice system and related, underlying issues relating to offending (see *Interim Assessment of the Community Justice Groups*)
It was suggested that the CJGs were not adequately skilled and resourced for the work they were being required to undertake. There were differentials in funding and in some cases coordinators were working as part of CDEP. This situation was said to be totally unacceptable for their level of responsibility. The CJGs provided an important avenue for community capacity building and the exercise of community self-determination.

**Murri Courts**

As the Murri Court had been developed on an ad hoc basis up until the time of evaluation, it was suggested that serious government commitment was lacking in relation to this initiative. It was recommended that the Murri Court be developed as an integrated justice strategy (with a legislative base and proper resourcing and support), and that it be independently evaluated (in terms of re-offending measures and community capacity building). Other identified needs included:

- ATSI court support officers assigned to the Murri Court.
- Promotion of the court among Indigenous organisations, and police, prosecutors and defence lawyers.
- A legislative framework for the court.
- Appropriate levels of funding, including for additional magistrates.
- The involvement of victims and appropriate victim support.
- Expansion of the Murri Court, particularly in the north where the lack of functional alternatives means there is little between fines and imprisonment.

**Alcohol Remand and Rehabilitation Program**

Another successful initiative has been the Cairns Alcohol Remand and Rehabilitation Program (CARRP). CARRP is a sentencing-based diversion scheme, which arose as a result of adverse comments from community leaders about Indigenous ‘street people’ in Cairns. It is a combined initiative of the Cairns magistracy and police prosecution corps, in conjunction with Aborigines & Islanders Alcohol Relief Services and is aimed at addressing alcohol-related offending behaviours. The program aims to give homeless people an opportunity to address alcohol induced, offending behaviour. Since its inception in 2003, approximately 20 people have been involved in the program. Although the program is not limited to Indigenous participants, the overwhelming majority of participants to date have been Indigenous people. The program has demonstrated success by providing culturally appropriate treatment.

**Diversion and specialist (drug & alcohol) courts**

These courts were found to not have high rates of participation of Indigenous people, and this situation had to be addressed to ensure that they could respond effectively and comprehensively to Indigenous needs. Relevant initiatives considered included the (proposed at that time) Indigenous Alcohol Diversion Program, QMERIT (diverting...
offenders to court enforced and supervised treatment programs), and the Volatile Substance Misuse Trial. As well as the critical need for community-based programs that could be utilised by courts, the following were thought to be relevant requirements to ensure that Indigenous needs would be better met:

- employ Indigenous caseworkers;
- liaise more closely with Indigenous agencies and communities;
- review eligibility restrictions; and
- develop culturally appropriate resources.

It was also noted with some concern that current and proposed diversionary processes for drug and alcohol related matters were only for adults. It was recommended that:

- a 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; and that
- 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.

Alternative types of custody and alternatives to custody

There was said to be potential to develop processes for Indigenous community supervision of offenders through the development, for instance, of effective and sustainable CJGs. Initiatives in this area in other jurisdictions were discussed, including Corrections-operated, Indigenous-specific residential alternatives such as Yetta Khinnakkal (Brewarrina) and Warrakirri (Ivanhoe) in NSW; Indigenous Community Supervision such as the Victorian Koori Justice Program; and initiatives in Western Australia.

The more relevant points raised in the final fifteen recommendations of the evaluation include the following:

- The juvenile conditional bail and bail support programs were found to be functioning well with good levels of Indigenous participation and completion. It was suggested that they needed to be expanded to deal effectively with the size of the Indigenous remand population (given that the remand population of Indigenous young people was, at the time of writing, at a crisis level).

- In line with the DJAG Indigenous Justice Strategy, there was a need for the JP program to be independently evaluated with respect to sentencing outcomes, recidivism, culturally appropriate processes and other community justice issues.

- It was recommended that a State-wide CJG Reference Group be established, which
could feed into the Aboriginal and Torres Strait Islander Justice Advisory Council.

- It was also suggested that the Murri Court be developed as an integrated justice strategy with a legislative base, with proper support and resourcing, and that there be an evaluation of the effectiveness of the Court.

2.1.6 Evaluation of the Queensland Aboriginal and Torres Strait Islander Justice Agreement: Queensland Government Response (November 2006)

The response to the 2005 evaluation of the Justice Agreement was published in November 2006 (Evaluation of the Queensland Aboriginal and Torres Strait Islander Justice Agreement: Queensland Government Response (the Response)). The Response gives some insight into then-current Government initiatives. The Government indicated the following:

- Alternatives to custody included the Drug Court, the Queensland Illicit Drug Diversion Initiative (diverting eligible offenders into a Drug Diversion Assessment Program), QMERIT, Cairns Alcohol Remand and Rehabilitation Program (for homeless people to address their alcohol-induced offending behaviour, with a formal evaluation currently being undertaken), and the Queensland Indigenous Alcohol Diversion Program (then under consideration).

- Further, the Government suggested that it was addressing the issue of homelessness through its Responding to Homelessness Strategy (2005). The DJAG was piloting a project in Brisbane Magistrates Court aimed at diverting homeless people from custody. Further, the Bail Support Strategy was said to potentially complement the Homelessness Strategy. Until the two-year homelessness project was evaluated, however, expansion of the Bail Support Strategy in this way was to be deferred.

- Whilst Queenslanders had relatively low Indigenous youth and non-Indigenous youth rates of detention, the level of overrepresentation of Indigenous youth was found to be slightly higher than when the Justice Agreement was signed. Policies addressing remand populations were thought to probably be most effective in addressing this issue. The DJAG’s Bail Support Strategy and the Homelessness Strategy, however, addressed adult remand, and the DOC was developing a remand strategy for juvenile offenders. This was to comprise four key elements, including the development of an effective assessment tool across the criminal justice system to assess bail risk and to determine bail options; identify funds for offenders with high needs; investigate the expansion of youth bail accommodation support services; and identify possible family support funds for high risk and high need young people and families.

- In terms of adult imprisonment, the steady increase in rates of Indigenous imprisonment since 2002 had been halted. The DCS had a number of programs for offenders, including Indigenous-specific programs. DCS had developed a new approach to service delivery to Indigenous communities, providing Indigenous offenders with the option of serving sentences in the community, and to benefit from more intensive case management (in
consultation with local stakeholder groups) and from state-of-the-art rehabilitation programs. Community Corrections offices were to be established in the lower Gulf and Torres Strait to provide a permanent service. Further, the Department of Communities was also expanding its network of Youth Justice Services to provide increased supervision for young people on community-based orders in Indigenous communities.

- The work of the Indigenous JPs was examined, and it is noted that training and support were being provided (through DJAG). At the time of writing (the Response), 174 JPs were trained to constitute court in 17 communities.

### 2.2 Justice Agencies’ Indigenous Strategic Policies

#### 2.2.1 Department of Justice and Attorney-General (DJAG)

**DJAG Indigenous Justice Strategy 2007-2008**

The *DJAG Indigenous Justice Strategy 2007-2008* reports that DJAG’s first *Indigenous Justice Strategy* was launched in May 2005. Since the introduction of the first Strategy, DJAG has been working to ensure that programs and services are responsive to Indigenous needs. Relevant achievements in this area in 2006/07 include the following:

- more ATSI JPs (Magistrates Court) have been trained and now constitute court in 17 communities throughout Queensland.
- CJGs were transferred by the then DATSIP to DJAG on 1 July 2006.
- a review of the Murri Court was conducted; and
- in May 2006, a two year Pilot Homeless Persons Court Diversion Program commenced targeting homeless people, including Indigenous people. Under the program the Department will work with Indigenous service providers to assist Indigenous people who appear before the Magistrates Courts charged with public space and other associated offences.

The *Justice Strategy* details current programs and future initiatives, based upon three goals: equity and fairness in the justice system, reform and (agency) capability. For our purposes, the relevant aspects of the *Justice Strategy* are as follows:

**Goal 1: Equity and Fairness in the Justice System**

**Current Initiatives**

- Court Circuits on remote communities (District and Magistrates Courts)
- Murri Court operating in five communities
- Training program for JPs, in consultation with stakeholders (such as QPS and CJGs) (175 JPs in 17 communities); and information sessions for community members about the role of JPs.
- Remote Witness Rooms and video conferencing facilities are being upgraded or installed, and CCTV facilities will be rolled out
- Community Justice Centres provide a venue for CJGs and visiting members of the judiciary to hold meetings and conduct court sittings
• **Justice Agreement**

**Future Initiatives**

- Implement recommendations of the review of the Murri Court
- Conduct an evaluation of the Murri Court 2007-2009
- Evaluate outcomes relating to JPs constituting Magistrates Courts and expand the program. Consider recommendations of the Queensland Law Reform Commission’s 2000 report: *The Role of Justices of the Peace in Queensland*
- DJAG will review the service delivery model for CJGs, establish a State-wide CJG Reference Group and deliver training and other support to members of CJGs.

**Annual Report 2006-2007**

Highlights for this reporting period include the following:

- Comprehensive training provided to CJGs (involving court procedures, submissions to the court and conflict resolution and mediation skills) in a number of locations. The training was provided in community forums and provided an opportunity for networking for the first time since 2004. Three additional CJGs were also funded this year.
- The Remote Training Program for Indigenous JPs was expanded. This program provides training throughout remote ATSI communities to enable the convening of magistrates courts constituted by two or more JPs. It is improving the accessibility of Queensland’s justice system to remote communities, according to the Annual Report, and reducing waiting times for minor offences, including simple offences, bail applications, domestic violence applications, traffic matters and breaches of by-laws. Offences of truancy and alcohol-related matters are also being dealt with in most communities. The use of local dialects in court is also addressing the language difficulties experienced by many Indigenous offenders. A total of 192 people from 18 remote ATSI communities have now been appointed as Justices of the Peace (Magistrates Court).
- A review of the Murri Court was also completed, and further Murri Courts were established. This review confirmed that the Murri Court is effective in providing practical access to justice for ATSI offenders and provides responsive justice outcomes that focus on the rehabilitation and reintegration of Indigenous offenders into communities. It recommended that an independent evaluation of the Court be conducted in tandem with improved data collection processes to determine conclusively whether the Court is meeting its goals. This evaluation is being conducted by the AIC.
- In terms of diversionary programs, in 2006-07 the Department continued its pilot of the Homeless Persons Court Diversion Program which began in the Brisbane Magistrates Court in May 2006; and implementation planning was finalised for the Queensland Indigenous Alcohol Diversion Program.
- Mobile videoconferencing units began operating in remote areas, and remote area video-court facilities were installed at Doomadgee and Mornington Island.
Future directions include the following;

- continuing Indigenous justice initiatives, including increased support for CJGs, establishing further Murri Courts, providing training to communities to establish courts convened by Indigenous JPs, and increasing support for communities through more frequent circuit courts in a number of communities;
- monitoring and improvement of diversion programs such as the Queensland Indigenous Alcohol Diversion Program pilots, and the Homeless Persons Court Diversion program;
- support for a two year, independent formal evaluation of the Murri Courts, and progressing the implementation of the finalised review of the Murri Court.

2.2.2 Queensland Department of Corrective Services (QCS)

Annual Report 2002/03

In this reporting period, the Department improved the process for obtaining more accurate information about the Aboriginal and Torres Strait Islander identity of offenders being inducted into custody, thus enabling better targeting of programs and resources. Continued to appoint honorary Indigenous officers in remote communities and to utilise contracted Indigenous service providers. It also promoted local delivery of departmental programs, including the Ending Offending Program and Substance Abuse Preventing and Managing Relapse Program, using Indigenous community members as co-facilitators. It was hoped that it would, in future, develop a regional Aboriginal and Torres Strait Islander community engagement framework in central Queensland to facilitate a coordinated response to integrated offender management. Further, the Department developed, revised and validated the Offender Risk Need Inventory (ORNI) to more effectively assess an offender’s risk of re-offending and associated rehabilitation needs and researched the use of ORNI with Indigenous offenders from remote communities and enhanced the revised version (ORNI-R) by including sections on cultural considerations. It also continued development and delivery of programs and services such as Murri Meeting Places in Correctional Centres; the Ending Offending, Ending Family Violence and Indigenous Sex Offender Programs (See below); the Family Support Program; Elders visits and Murri Chaplain visits; the Cultural Interest Program; and the Sexual Health Program. CJGs under Meeting Challenges Making Choice were also supported by facilitating their involvement in developing community-owned solutions.


QCS worked with DJAG to develop a Crime and Violence Response Plan for Indigenous communities. In terms of community supervision, QCS worked with the Indigenous Justice Group, ATSI legal services and others as part of a trial to improve case management opportunities for offenders on Palm Island. Further, research was completed in relation to the needs of Indigenous offenders with problem gambling issues, and relevant rehabilitation programs were commenced, including on remote Indigenous communities.

There is some discussion of the contribution that the new Probation and Parole service is making to improve services to Indigenous communities, including as a result of establishing reporting centres and district offices, as indicated above. An MOU was established with Relationships Australia for the development and implementation of an Indigenous men’s program in south-east Queensland.

Annual Report 2007/08

In 2007/08, QCS Probation and Parole developed the Aboriginal and Torres Strait Islander Strategy, which included establishing new and permanent Probation and Parole offices in a number of remote (Indigenous) communities, providing sentencing support for visiting Judges and Magistrates. A permanent reporting office has also been established in Woorabinda. Probation and Parole staff visit islands in the Cape York region, and continue to forge relationships with stakeholders (such as CJGs and the ATSI legal services). During 2007-08, QCS commissioned an independent evaluation to seek feedback from external stakeholders, including CJGs and Judges and Magistrates to assess services provided under the ATSI Strategy, and there was an indication that the new Probation and Parole offices were improving services on Indigenous communities. The Ending Family Violence and Ending Offending programs for ATSI offenders are co-delivered by community members or elders, and 178 completions were recorded for this reporting period. Two Indigenous-specific programs relating to drug and alcohol abuse were also delivered: Ending Offending Program and Indigenous Peer Education Program; as well as the Transitions Program (for female and Indigenous offenders), to ensure that relevant needs are met in considering plans for release.

Strategic Plan 2006-2010

The DCS Strategic Plan 2006-2010 refers to initiatives which specifically target Indigenous offenders:-
• In terms of community supervision services, strategies for managing offenders in the community include expanding services in Lower Gulf and Torres Strait communities and employing additional staff in remote and regional areas to deliver programs designed to break the offending cycle.
• In terms of minimising the risk of re-offending through targeted and coordinated intensive services, strategic projects include developing problem gambling services for Indigenous communities.

QCS Strategic Plan 2008-2012

The most recent Strategic Plan refers to initiatives which specifically target Indigenous offenders:

- In terms of community supervision services, strategies ensuring that there is greater opportunity for Indigenous offenders to be supervised in their communities include enhancing Probation and Parole’s presence in remote and regional areas and developing and maintaining partnerships with Indigenous communities to maximise the opportunity for offenders to reintegrate into their communities; It is also noted the reduction in prisoner numbers has occurred as a result of the new Probation and Parole service and the ATSI Strategy (see below).

QCS Probation and Parole – Aboriginal and Torres Strait Islander Strategy 2007/08

Emailed PP service, waiting on response.

2.3 Other Relevant Strategies, Evaluations, Policies and Initiatives

2.3.1 Review of the Murri Court

In 2006, a review was conducted in relation to the Murri Court (Department of Justice and Attorney General, (2006) Report on the Review of the Murri Court; see also Westcott, M, (2006) Murri Courts, Research Brief 2006/14, Queensland Parliamentary Library) with the review resulting in further funding. (By this time, there was a Murri Court in the Adult Magistrates Court criminal jurisdiction and/or the Childrens Court in Brisbane, Caboolture, Rockhampton, Mount Isa and Townsville. The Murri Court had also recently started operating on a trial basis in Cherbourg). In the 2006 review, it was reported that Murri Court stakeholders indicated that the Court was an effective mechanism for increased participation in and ownership by the Indigenous community of the criminal justice process. The Review, however, found that limited data collection processes were in place to report on other specific outcomes of the Murri Court. As a result, it was not possible to conclusively determine whether the Murri Court was meeting its objectives of reducing imprisonment, decreasing the rate of re-offending and reducing the number of Indigenous offenders who failed to appear in court. The DJAG Annual Report (2006/07), however, indicates that a review of the Murri Court confirms its effectiveness in providing practical access to justice for ATSI offenders and responsive justice outcomes that focus on the rehabilitation and reintegration of Indigenous offenders into communities (see also Pathe & Parker 2006; Hennessy 2007; Westcott 2006; discussion in Cunneen 2005).

In 2008, the DJAG (Courts Innovation) provided further detail in relation to progress of the Murri Court. Since the January 2007 injection of dedicated government financial support for the then existing five Murri Court locations, conversations and agreements between local Indigenous communities and local Magistrates have resulted in the establishment of seven further Murri Courts. Murri Courts now operate in Brisbane, Caboolture, Cleveland, Ipswich, Caloundra, Cherbourg, Rockhampton, Townsville, Cairns, Mt Isa and St George. The five Murri Courts that were operating prior to 1 July 2006 are under detailed evaluation to assess the impact of the program on
achieving a number of goals.

The provision of dedicated Murri Court staff within the Department of Justice and Attorney-General has provided assistance to Magistrates in establishing local agreements and providing orientation training for new Murri Court Elders to assist them with their court role. These Court Case Co-ordinators are also engaged in the collection of evaluation data and in program development to support Murri Courts. The program is overseen by an inter-departmental committee, on which the Court is represented by the Chief Magistrate and Deputy Chief Magistrate. Several key initiatives have occurred over the last 12 months to further develop the Murri Court program. A full review of the work of the Murri Courts under evaluation has been initiated. These courts have been operating largely independently and have provided contrasting responses to local Indigenous community issues.

The evaluation requirements of the Murri Court program saw the development of a Murri Court database to record the performance of defendants through the program. This database has the capacity to monitor recidivist behaviour through a link to the Queensland Wide Integrated Courts (QWIC) database and provide quantifiable data on any return of offenders into the justice system after Murri Court. A Murri Court DVD has been produced to demonstrate the range of involvement of Murri Court Elders in the program and to honour their commitment as volunteers to improve justice outcomes for their communities. Regular Newsletters and brochures have been initiated to spread word of the work of the Murri Courts. Several Indigenous artists have donated artworks and allowed reproduction of the art in literature used by the Murri Court, further enhancing the involvement of Indigenous communities.

Support has been provided to develop Murri Court focused programs, such as an employment skills program in Brisbane, Elder involvement in Youth Conferencing in Caboolture, and an Indigenous Men’s group in Mt Isa, to provide options for appropriate intervention in the problematic behaviour of defendants.

2.3.2 Queensland Indigenous Alcohol Diversion Program (QIADP)

The Queensland Indigenous Alcohol Diversion Program (QIADP) commenced as a pilot project in 2007 in three locations. It is a treatment program for Indigenous people involved in either (i) the criminal justice or (ii) child protection systems. Under QIADP, eligible Indigenous people are placed in treatment and case management programs designed to reduce alcohol-related harm to the individuals and the community. The program lasts for approximately 20 weeks. Within the criminal justice system, QIADP is offered as a bail-based diversion for offenders charged with offences where alcohol is a factor (but not for offences of sexual or other significant violence). There are eligibility criteria for entry to the program. Professionals who might work with participants during the program include magistrates and court staff; Indigenous health services; solicitors; and community based organisations. The program has a number of benefits, including offering more appropriate sentencing of offenders based on detailed information acquired

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6 Peter Kent, (DJAG) Courts Innovation, email to author 4 July 2008
during their participation in the program; enhanced community safety (as participants are closely monitored); and reduction in the numbers of Indigenous people involved in the child protection and criminal justice systems. Referral may be through lawyers, police, or self-referral and, after an initial assessment by a magistrate, or by an officer of the Department of Child Safety, Queensland Health will then assess suitability for attendance. Queensland Health caseworkers will then prepare individualised treatment plans, which will include access to relevant services (such as counselling or residential treatment). For those involved in the criminal justice system, participants will be required to attend court for regular progress reviews, and will attend court upon completion for sentencing.

The DJAG has identified this Program as an initiative that appears to be progressing well, and as having potential to address issues of alcohol-related criminal offending and child protection within Indigenous communities. The program has the support of magistrates (Protocol 2 of 2008 by the Chief Magistrate). According to the DJAG, it provides an option for persons to participate in a structured intervention that aims to assist in the lives of participants, giving them the skills and confidence needed to improve their health and wellbeing.  

2.3.3 Indigenous Corrections and Community Corrections Programs

Relevant programs are as follows:-

• The Ending Family Violence program tackles violence within Indigenous families and aims to develop culturally-appropriate solutions to protect adults and children from the effects of domestic violence. The program assists Indigenous offenders to understand what triggers their violent behaviour, and then helps them to identify and practise better behaviours with guidance from trained Aboriginal and Torres Strait Islander program facilitators. The program focuses on understanding violence, looking at the influence of alcohol, the consequences of violence, making the violence stop, self-empowerment, relapse prevention, and the impact of alcohol consumption in relation to violent behaviour. The program is available to prisoners in correctional centres and offenders on probation or parole.

• Ending Offending is a cognitive behavioural program designed to meet the needs of Aboriginal and Torres Strait Islander offenders in a culturally appropriate manner. The overall aim of this program is to modify the drinking and offending behaviour of indigenous offenders in the correctional system. The program is available to prisoners in correctional centres and offenders on probation or parole.

• The New Horizons: Indigenous high intensity sexual offending program and Back on Track: Indigenous medium intensity sexual offending program have the same elements as mainstream sex offending programs, but are specifically designed to accommodate cultural, custom or language considerations relevant to Indigenous offenders. The programs involve a cultural advisor who attends the group and works with the program facilitators to promote cultural awareness. Both programs are offered in selected

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7 Peter Kent, (DJAG) Courts Innovation, email to author 4 July 2008
2.3.4 Community Justice Groups

The Department of Justice and Attorney General (DJAG) has referred to particular aspects of CJGs in indicating best practice. These include the introduction of the State-wide Reference Group for CJGs in 2007/08. The State-wide Reference Group consists of two CJG representatives from eight regions of Queensland, together with stakeholders (including representatives from the DJAG, the judiciary, the Aboriginal and Torres Strait Islander Legal Service and other government agencies). Regional training forums for CJGs were also highlighted. The forums allow representatives from CJGs located in the same region to come together and discuss topics from the Statewide reference groups and to participate in appropriate training. Three days of the four-day regional forums for 2007/08 were devoted to providing training to community justice members in job-relevant core units from a Certificate IV in Business (Governance). This was delivered as an accredited TAFE course with the first day spent assessing the prior learning of the students. The following two days involves the delivery of the first three subjects of the certification. Following the initial study at the regional forum, students are able to continue their study towards gaining the formal qualification through delivery methods such as video conferencing, teleconferencing and internet activities. For regions that obtain sufficient enrolments, a TAFE teacher will travel to the centre to conduct face-to-face training. Undertaking this accredited training program has lead to a transformation in the way in which graduates understand their roles and responsibilities and has equipped them with the necessary skills to perform their core functions effectively and efficiently.  

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9 Peter Kent, (DJAG) Courts Innovation, email to author 4 July 2008