*Aboriginal Self-determination: 'Fine Words and Crocodile Tears'?**

As Australians become increasingly aware of the approaching Sydney 2000 Olympic Games, some public policy issues that many hoped would go away are returning to the headlines. Among these is the issue of self-determination for Indigenous Australians. In this commentary we draw attention to the processes through which self-determination is becoming increasingly prominent and illustrate attempts to implement the underlying principles within the context of community policing in one Australian jurisdiction.

First, the international context. As long ago as 1994 the United Nations *Draft Declaration on the Rights of Indigenous Peoples* was adopted by the UN Working Group on Indigenous Populations. The Draft Declaration states, in Article 4, that:

> Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development (United Nations Working Group on Indigenous Populations 1994).

Throughout 1999 the current Australian Government has embarrassed the nation in this international forum in its opposition to the self-determination provisions.

Secondly, during the second half of the year community groups around the nation are discussing the *Draft Declaration for Reconciliation* which has been promulgated by the Council for Aboriginal Reconciliation. Many key political leaders have tended to be either silent about or dismissing of the draft. A significant challenge to them is the penultimate paragraph of the Declaration which states 'And so we pledge ourselves to stop injustice, address disadvantage and respect the right of Aboriginal and Torres Strait Islander peoples to determine their own destinies'. This is particularly problematic for people and organisations who harbour distrust of multiculturalism and fear that Indigenous self-determination will challenge their lifestyles.

Indigenous leaders, however, are serious about this. Mr Gatjil Djerrkura OAM, ATSIC Chairman, recently stated that the new relationships envisaged between Indigenous and other Australians need to be based upon equity in outcomes but, more than this, they must also be based upon:

> ...all parties [recognising that] Indigenous peoples possess distinct rights...The principle of self-determination is central to this. I am pessimistic about the prospects of any document [of reconciliation] which fails to recognise the principle of self-determination gaining support among indigenous constituencies...In the endeavour of forging new relationships, and specifically in discussion of the Declaration for Reconciliation, it will be critical to ensure indigenous people gain control of the process (Djerrkura 1999: 4-5).

The Royal Commission into Aboriginal Deaths in Custody discussed Indigenous self-determination and gave simple but profound advice as to its operationalisation, recommending:

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* This Contemporary Comment is based, in part, on research undertaken by the first author during 1998 with the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, under the auspices of the Australian National University's Australian National Internship Program.

> That governments negotiate with appropriate Aboriginal organisations and communities to determine guidelines as to the procedures and processes which should be followed to ensure that the self-determination principle is applied in the design and implementation of any policy or program or the substantial modification of any policy or program which will particularly affect Aboriginal people (Recommendation 188) (Royal Commission into Aboriginal Deaths in Custody 1991, vol 4, p 7).

The Royal Commission's discussion centred around the observation, across the nation, of fine outcomes being achieved by Indigenous community-controlled organisations, and in projects where such organisations work in mutually-respectful relationships with government agencies.

Community policing arrangements in which Indigenous people operate in strategic partnerships with local police managers and operational personnel is one of the areas ideally suited to the realisation of self-determination. They hold genuine potential to reduce the rate of increase in the incarceration of Indigenous people and, indeed, to reverse it. (Unfortunately, community policing is still being challenged by the superficially attractive 'zero tolerance' policing approach. As Cunneen (1999) has demonstrated in a report to ATSIC, this is a particular problem for Indigenous people.) We studied the policing of Indigenous people in the Australian Capital Territory with the aim of understanding how and to what degree the ACT Government has honoured its commitment to implementing Recommendation 188 of the Royal Commission into Aboriginal Deaths in Custody, quoted above.

A Case Study: Community Policing and Self-determination in the Australian Capital Territory

The Indigenous community in the Australian Capital Territory (ACT) comprises just under 3000 people, including a strong representation of the Ngun(n)awal people, the traditional owners of much of the region, as well as Indigenous people from other parts of Australia (ATSIC 1994:5; Australian Bureau of Statistics 1997:8).

The ACT Government has shown an acceptance of the spirit of the Royal Commission's recommendations, and according to its annual implementation reports, has implemented all recommendations relevant to its jurisdiction. It acknowledges the centrality of self-determination and the importance of involving Indigenous people in decision-making processes which affect them (ACT Government 1995: 223). Certainly there are examples of good practice and there seem to have been improvements in the relationship between Indigenous people and policing and justice mechanisms in the ACT. But, just as in many other areas, in the ACT there is consistent discrepancy between the rhetoric of official government reports, and the perceived effectiveness of the implementation process by Indigenous people in the local community. Accordingly, by examining community policing and self-determination in the ACT, the aim of this case study is to discern where this discrepancy might lie.

The majority of existing literature on Indigenous people and successful and effective community policing focuses on rural and remote Indigenous communities: the Julalikari night patrol in Tennant Creek is well documented (see for example Edmunds 1991:13-14); the Kullari patrol in Broome (Western Australia Aboriginal Justice Advisory Committee 1994:4) and Kowanyama Justice Group in Cape York (Chantrill 1998:2) are others among the many examples. But a large proportion of the Indigenous population in Australia live in urban and metropolitan areas, where the nature of both the community, and its interaction with policing and justice systems, may be different. Indigenous people in the ACT, for

example, are dispersed throughout the non-Indigenous population. Yet Indigenous community members in the ACT suggest that although urban Indigenous communities differ in nature from remote and rural ones, the notion of 'community' is still powerful. Subsequently, according to members of the Indigenous community in the ACT, community policing is still a useful concept, although it might operate in a somewhat modified form.

Several mechanisms for Indigenous involvement in the ACT's justice system exist, including an Aboriginal Community Liaison Officer (ACLO) with the Australian Federal Police (who provide the local police service for the area), an Aboriginal Justice Advisory Committee (AJAC), and the ACT Chief Minister's Aboriginal and Torres Strait Islander Consultative Council. But the most direct involvement of the ACT's Indigenous community in policing and justice issues occurs through the 'Aboriginal Interview Friends' program. Initially evolving out of an arrangement between local Aboriginal people and the then ACT Police Commissioner, Aboriginal Friends has been operating for about eight years.[1] The program aims to provide support for Indigenous people taken into custody during interviews with the police. The program operates on a roster basis whereby local Indigenous volunteers are called in to attend police interviews where a relative, friend, or legal representative is unavailable. Aboriginal friends ensure the detainee is in a fit state to be interviewed, ensure the detainee understands the process (for example, by making sure the interviewing police officer properly explains each part of the interview), and take action should any alleged impropriety occur.

So is the Aboriginal Friends program an example of 'metropolitan Aboriginal community policing'? The significant characteristic of the Aboriginal Friends program in terms of the concepts of community policing and self-determination, according to one of the program volunteers, is that it has been wholly conceptualised, designed and managed by local Indigenous people. In this sense, it does exemplify some of the characteristics of community policing, because local Indigenous people initiated its establishment and have controlled its development. Indeed, both the police and local Indigenous people agree that the involvement of Indigenous people in policing processes through initiatives such as Aboriginal Friends *has* contributed to improving the relationship between the local Indigenous community and the police. One of the coordinators of the program suggests that this is because it creates an ongoing basis for *constructive* interaction between the two parties.

Hence the Aboriginal Friends program in the ACT is an example of good practice, and has certainly been a positive step in the right direction in terms of implementing the principles of community policing, and subsequently, realising some form of self-determination for Indigenous people and their interaction with the criminal justice system in the ACT. Yet its effectiveness is limited by the fact that it is only one small penetration of a large and powerful system which ultimately remains controlled by non-Indigenous people and guided by non-Indigenous values. For example, Indigenous people involved with the program suggest its successful operation is often hampered by police whose

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1 The Aboriginal Friends program was not a specific result of the Royal Commission's recommendations, but its development coincided with the initial implementation of Royal Commission's recommendations and the subsequent government responses. Consequently, the implementation of the Royal Commission's recommendations by governments has aided its development by making the presence of an interview friend for all Indigenous detainees in police interviews a statutory requirement under the amended Commonwealth Crimes Act 1914. The funding and formal development of the program through the ACT Attorney-General's Department has also been part of the implementation of the recommendations of the Royal Commission.

attitudes are still dominated by negative and racist stereotypes. Further, for all its virtues, it remains essentially a *reactive*, rather than a *proactive* program. That is, it deals with Indigenous people *after* they come into the criminal justice system. But the underlying aim of the Royal Commission's recommendations was, after all, to keep them out. Thus, the involvement of Indigenous people in police operations through the Aboriginal Friends program is a *limited* form of community involvement in policing, at best.

As a result, Indigenous people argue that while there have been moves forward, overall there is still inadequate consultation and negotiation over policing processes with the ACT's Indigenous community. They suggest that mechanisms for Indigenous involvement in the policing process (other than the Aboriginal Friends program) are ineffective because Indigenous people are not given sufficient opportunity to become involved. The membership of the Chief Minister's Aboriginal and Torres Strait Islander Consultative Council, for example, is decided upon by the Chief Minister, who, according to people who have been involved, listens to its advice selectively. So while it might give Indigenous people a voice, Indigenous people who have been involved with the Consultative Council say it is clearly not a decisive or politically empowering one. Therefore this broader problem of lack of sufficient consultation suggests that Indigenous people in the ACT do not have a significant input into shaping policing processes and structures. Accordingly, the limited form of community policing which exists in the ACT does not significantly (if at all) alter the subordinate status of Indigenous people in their relationship with the police. It does not transfer any powers of 'policing' to the community, but rather, policing continues to be something wholly controlled by the police.

So clearly, there is a gap between the official rhetoric of governments who say they support the principles of self-determination, and the reality of the experience of Indigenous people and their interaction with the justice system in the ACT. Local Indigenous people say their right to self-determination is not taken seriously by governments. Self-determination is about Indigenous people designing strategies and deciding upon directions in their own ways. This may be within the framework of government structures but seems to be more effective in Indigenous organisations. But Indigenous people in the ACT consistently suggest that communication, consultation and negotiation between them and government is inadequate, often tokenistic, and as a result, ineffective. Meaningful negotiation with Indigenous people has to occur through genuinely representative organisations, not, as Cunneen (1991:24) points out, through "the assimilated few who are willing to endorse white views". And while governments continue to listen selectively to Indigenous voices, the problems will not go away.

The ACT seems to typify common problems and recurring themes in discussions about the relationship of Indigenous people to the Australian criminal justice system: there has been incremental progress and some improvements since the Royal Commission, but overall there remains inadequate interaction between Aboriginal people and justice agencies. As a result, the implementation of the Royal Commission's recommendations is not producing the outcomes potentially obtainable through the realisation of self-determination for the Indigenous population.

The absolute centrality of self-determination for Indigenous people has been reiterated time and time again, both within Australia, in reports such as that of the Royal Commission into Aboriginal Deaths in Custody (1991) and *Bringing Them Home - The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (1997), and internationally, through mechanisms such as the *Draft Declaration on the Rights of Indigenous People*. This case study of the ACT only reinforces this message, as

the examples of other Aboriginal community run organisations we mentioned earlier also suggest.

Thus, almost ten years after the Royal Commission's recommendations were released, their central theme is as relevant and pertinent as ever: Aboriginal people need to have a greater degree of *control* over the criminal justice processes which so profoundly affect their people and their communities. In order for this to occur, governments must listen, respectfully and attentively, to what Indigenous people are telling them about attaining justice for Indigenous people. At the 1997 National Summit on the implementation of the Royal Commission's recommendations, Michael Dodson, the former Aboriginal and Torres Strait Islander Social Justice Commissioner, told the audience that Indigenous people generally have little faith in government promises about what they will do to implement the Royal Commission's recommendations. Indigenous people do not want "fine words and crocodile tears. [They] want action and results" (Dodson 1997:1).

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