

## **INDIGENOUS COMMUNITY JUSTICE GROUPS IN QUEENSLAND**

(A paper presented by Judge Michael Forde to the Sino-Australia Judicial Conference in Taiyuan, China, March 2006)

### **Introduction**

1. May I thank you for the opportunity to speak to you today. The tradition of the exchange of views between the judges of Australia and particularly Queensland and our Chinese colleagues continues to be a fruitful one.
2. The topic today touches upon the manner in which the justice system in Queensland treats its oldest inhabitants who have been known to have settled in Australia at least 40,000 years ago. In some ways we are still a young country compared to China. Just as you have minority groups in China, so too the indigenous people of Australia are in a minority. They are made up of Aborigines and Torres Strait Islanders who live both on the mainland and on adjoining islands.
3. The Aboriginal and Torres Strait Islander minority form around 3.2% of the Queensland population. Unfortunately, they make up 23.1% the prison population. In other words they are 7 times more likely to be imprisoned than their non-indigenous counterparts. In fact, some 55% of youths in detention centres were of Aboriginal or Torres Strait Islander descent.<sup>1</sup>

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<sup>1</sup> Hack, S. "Community –Based Sanctioning of Offenders" *Alternative Law Journal* Vol 30:1 February 2005 p.24.

## **Community Justice Groups**

4. The concept of Community Justice Groups (CJG) began in Queensland in the 1990's. This followed a move by the Queensland Government to encourage Aboriginal leaders to become more involved with law and justice issues within their communities. There are some 43 such CJG in Queensland.<sup>2</sup> Following this, s 9(2) of the Penalties and Sentences Act requires a court to "have regard to submissions made by a CJG when sentencing an indigenous person". This may include such factors as the offenders' relationship with his or her community, cultural considerations and what rehabilitation programs are available in the particular community including drug counselling, alcohol management and assistance with issues concerning domestic violence.
5. The CJG also are involved with preventative programmes within their community. This involves assisting persons in violent relationships to deal with their problems, drug and alcohol preventative programmes. Unfortunately, there are insufficient resources provided to the CJG to allow them to do the job effectively.
6. The consultation process provided for under the Penalties and Sentences Act applies only to indigenous people. It has been observed that this may mean that the indigenous people have a greater say in what happens to offenders.<sup>3</sup> However, any such criticism has to be balanced against the significant problems which are experienced by indigenous people in Australia. A Royal Commission was established to look into the large number of deaths which were occurring when indigenous persons were in custody. This was an attempt by government to understand the cultural problems which an

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<sup>2</sup> Bradley S., a Judge of the District Court of Queensland, "Community Justice Groups" Canberra 2005 p.1.

<sup>3</sup> Hack op. cit. p.25.

indigenous person faced when incarcerated. There were many recommendations made to attempt to avoid further deaths. Unfortunately, deaths continue to occur but not as often.

### **Procedures in Court**

7. A video presentation will show the manner in which the CJG are involved in the court process. Generally, the CJG are advised of the list of persons who are to appear on a particular circuit. They invariably know the defendants from their community. They can then make submissions on the person. The types of issues have already been referred to and are expanded upon in a separate paper which is to be left with you.<sup>4</sup>
8. The CJG is not required to tell the judge what the appropriate sentence would be. It is only required to provide further information in open court which allows the judge to make a more informed decision as to what the appropriate sentence would be.
9. The involvement of the CJG occurs mainly in the remote communities of Queensland. My own circuit involves Mornington Island and Doomadgee. Other judges go to communities in the Cape which is in far north Queensland. On our last trip last year, we took some photographs of the trip. They will better explain the environment and the nature of the circuit.

### **Recent Developments**

9. The consumption of excess alcohol has been a major problem in the indigenous communities. In recent years, alcohol management programmes

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<sup>4</sup> Forde, M. Judge of the District Court of Queensland, a paper presented to the CJG in Mt. Isa February, 2003 "The Role of Community Justice Groups in presenting submissions on Sentencing".

(AMP) have been introduced to deal with the crimes caused by excessive alcohol consumption. The AMP can be either a total ban on alcohol or a restriction on the hours it is served. The effect in Mornington Island has been significant. There has been a 66% fall in violent crimes in three years. Hopefully this will continue.<sup>5</sup>

10. There is also a need for ongoing programmes for drug and alcohol counselling. There has been more emphasis on providing ongoing services in the communities to assist those with problems including domestic violence issues and child safety.

### **Conclusions**

11. The above remarks are a summary of the role of CJG in the Queensland Justice System. More detailed accounts are to be found in the reference material which can be found in the folder which is to be left with you.

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<sup>5</sup> Forde, M. "Leaders Need Support", an article published in the "Courier Mail", 4 January 2005.