

**Paper delivered to Justice Department on Indigenous Community Justice
Groups, 6 July 2006, at Magistrates Court Building, George Street, Brisbane**

Introduction

1. It gives me a great deal of pleasure to speak to you today. Now that the Justice Department has taken over Community Justice Groups (CJG), I am hopeful that better funding, resources and training will be available for the members of the CJG.

2. The CJG play an important role in both the preventative programs and the court process in the indigenous communities of Queensland. By being part of the justice system the CJG are seen as having more authority in the communities not only by government but by the people living in the communities.

3 Aboriginal and Torres Strait Islander people 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.¹

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

Community Justice Groups

3. 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.² 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.
4. The CJG also are involved with preventative programmes within their community. This involves assisting persons in violent relationships to deal with their problems, petrol sniffing, drug and alcohol preventative programmes and the related issues of violence. Unfortunately, to date there are insufficient resources provided to the CJG to allow them to do the job effectively.
5. 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.³ However, any such criticism has to be balance 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

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

³ Hack op. cit. p.25.

attempt by government to understand the cultural problems which an 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

6. A video has been made available to the CJG which shows how the CJG are involved in the court process. This video was produced by me when it appeared to the judges of the District Court that no training had been provided to the CJG. A training manual was also produced by my former associate Meg Frisby and myself. The training of CJG in the justice system began at a seminar at Mt. Isa in 2003 when the video was shown to representatives of the communities from the Gulf area.⁴ Generally, the CJG are advised of the list of persons who are to appear on a particular circuit. The members of the CJG invariably know the defendants from their community. They can then make submissions about the person.
7. 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.
8. The involvement of the CJG is not only in the remote communities of Queensland. There are groups in provincial cities and western towns also. My own circuit involves Mt. Isa, Normanton, Mornington Island and Doomadgee. Other judges go to communities in the Cape which is in far north

⁴ 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”.

Queensland. On our trip in 2005, we took some photographs. 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 (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.⁵ An AMP has recently been introduced on Palm Island.
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. If the CJG are to be more effective, there must be more professional support for their activities. Proper training of counsellors who live in the communities is essential. Back up professional support is necessary for those counsellors. There must be effective ongoing programmes involving treatment for those with drug and alcohol problems which often lead to violence, particularly domestic violence.

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

12. After a trip to the Gulf in 2003, we undertook an audit of how much it would cost government to house prisoners under orders made on that circuit. The cost of providing supervision for community based orders including community service and probation or intensive correction orders was not included. The potential was \$2m. If \$500,000.00 was spent on preventative measures or ongoing programs as suggested to deal with the problems, there would be a significant drop in the number of people who are sent to prison and less suffering for their families.