

**Assessment of the Aboriginal and Torres Strait Islander  
Justice Agreement 2000-2010**

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## Introduction

The Aboriginal and Torres Strait Islander Justice Agreement (the Agreement) was a 10 year agreement signed by the Queensland Government and the Aboriginal and Torres Strait Islander Advisory Board in 2000. The Agreement had two central aims:

(1) A 50% reduction in the rate of Aboriginal and Torres Strait Islander peoples incarcerated in the Queensland criminal justice system by 2011.

(2) A longer-term aim to reduce the rate of Aboriginal and Torres Strait Islander peoples coming into contact with the criminal justice system to at least the same rate as other Queenslanders.

The Agreement focused on criminal justice system responses to achieve these reductions.

During the period from 2000-2010 there has been many important improvements made to the criminal justice system in Queensland that have benefited Aboriginal and Torres Strait Islander people. These include:

- The introduction of a range of measures to ensure that police routinely consider diversionary options, particularly for young people.
- The establishment and expansion of Murri Courts which involve respected Indigenous people in the sentencing of Indigenous offenders.
- Support provided to community justice groups. These groups act locally to assist victims and offenders in the criminal justice system, including by making submissions to the court on relevant matters in bail and sentencing hearings.
- Increased capacity for community supervision through the expansion of probation and parole services to ensure that sentenced offenders stay on track and reduce offending.
- Improvements to the collection of information that allows for better measurement and understanding of Aboriginal and Torres Strait Islander contact with the criminal justice system.
- Improved access to victim support services and financial assistance for Indigenous victims of crime.

Despite these improvements in Queensland, it has been difficult to achieve reductions in Indigenous over-representation in incarceration and in the wider criminal justice system. Despite successive governments focusing on these issues for two decades since reports of the Royal Commission into Aboriginal Deaths in Custody in 1991, Indigenous over-representation remains the most significant social justice and public policy issue within the criminal justice system. This is true not just in Queensland but across all Australian jurisdictions.

The Agreement was an ambitious step to improve Indigenous crime and justice outcomes through better coordination of criminal justice initiatives in Queensland. However, 10 years later the disparity between Indigenous and non-Indigenous involvement in the criminal justice system has increased.

There is currently intense effort, both at the state and national, to address the causes of Indigenous disadvantage through the Council of Australian Governments (COAG) and the 'Closing the Gap' agenda. We – the Queensland Government and Indigenous people together – must capitalise on this focus and ensure that crime and justice outcomes improve.

This document outlines what we can learn from the Agreement and how we can immediately get to work to improve Aboriginal and Torres Strait Islander crime and justice outcomes. The report is organised into the following sections:

- **The Agreement, its evaluation and the response.** This section provides a brief outline of the Agreement itself, the independent evaluation of the Agreement conducted in 2005, and the Government response to this evaluation provided in 2006.
- **What does the data show during the 10 years of the Agreement?** This section presents key data showing the limited success achieved during the life of the Agreement in reducing Indigenous over-representation in the criminal justice system in Queensland.
- **Why didn't the Agreement achieve its central aims?** Open and honest scrutiny is provided in this section about the reasons why the central aims of the Agreement were not achieved. The best evidence now available is also summarised, including consideration of what works to reduce offending, to inform this assessment of the underlying reasons for the limited success achieved under the Agreement.
- **The way forward.** Finally, this section provides conclusions and identifies how the lessons learnt from the Agreement will be applied as we move forward with Indigenous people to tackle the problem of Indigenous over-representation in the criminal justice system in Queensland.

# The Agreement, the five year evaluation and the Queensland Government's response to the evaluation

## *The Agreement*

The Aboriginal and Torres Strait Islander Justice Agreement (the Agreement) was a 10 year agreement signed by the Queensland Government and the Aboriginal and Torres Strait Islander Advisory Board in 2000. The Agreement had two central aims:

(1) A 50% reduction in the rate of Aboriginal and Torres Strait Islander peoples incarcerated in the Queensland criminal justice system by 2011.

(2) A longer-term aim to reduce the rate of Aboriginal and Torres Strait Islander peoples coming into contact with the criminal justice system to at least the same rate as other Queenslanders.

The Agreement focused on criminal justice system responses to achieve these reductions, including by:

- 'improved coordination' across Queensland justice-related agencies and with Aboriginal and Torres Strait Islander community organisations in the development and delivery of policies, programs and services (Queensland Government 2000, p. 7)
- 'supporting outcomes' such as providing alternatives to court, effective diversion, effective legal assistance, Indigenous community input into sentencing, cultural awareness training for all justice-related employees and the employment of more Indigenous Queenslanders in justice-related government agencies (Queensland Government 2000, p. 11).

The Agreement was to be supported by yearly 'Action Plans' setting out specific commitments made under the Agreement.

The Agreement's focus on criminal justice initiatives was deliberate. Efforts to address the underlying social, cultural and economic causes that contribute to the over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system were intended to be dealt with through the '10 Year Partnership', the then whole-of government strategic planning framework for improving Indigenous outcomes.<sup>1</sup>

The Agreement was one of the first attempts in Queensland to provide objective performance indicators against which progress to address Indigenous disadvantage could be openly assessed. In addition to seeking a reduction in the rates of imprisonment and detention of Indigenous people, the following five performance measures were also identified under the Agreement:

1. a reduction in Indigenous people being arrested by police
2. an increase in Indigenous people being cautioned
3. a decrease in Indigenous people coming before the courts
4. a reduction in Indigenous people receiving custodial sentences
5. an increase in Indigenous people receiving community corrections orders.<sup>2</sup>

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<sup>1</sup> The 10 year period of the Agreement has been one of very rapid change in Indigenous policy for successive Australian and Queensland Governments. It has been the case that many policy frameworks have been quickly superseded in an attempt to improve outcomes for Indigenous people (see Crime and Misconduct Commission (CMC) 2009, pp. 12-28 for further discussion).

<sup>2</sup> While the Agreement is notable for providing one of the first attempts to set out objective performance indicators, the performance indicators nominated in certain respects are probably not ideal. For example, achieving success in terms of the performance indicators 3 and 4 (i.e. a decrease in the rate of people coming before the courts and a reduction in custodial sentences) is likely to be heavily dependent on achieving success with 1 and 2 (a reduction in arrests and increase in cautions). Further, performance indicators should refer to

The Agreement envisaged an ongoing reporting and evaluation process that would assess progress through:

- a publicly released annual report
- an independent evaluation to be conducted every three years and tabled in parliament.

### ***The five year evaluation***

In 2005, an independent evaluation of the Aboriginal and Torres Strait Islander Justice Agreement was conducted by Professor Chris Cunneen and others (Cunneen, Collings & Ralph 2005). It found that since the Agreement was signed, rates of detention for Indigenous juveniles and their levels of over-representation had not decreased and were actually higher in 2003–04 than in 2000–01. More positively, rates of imprisonment for Indigenous adults had declined.

The five year evaluation noted that each department had made some progress in implementing strategies aimed at reducing Indigenous imprisonment rates (such as police cautioning, other diversionary programs and community justice groups), but that these initiatives required additional funding and support to achieve their aims. The evaluation further highlighted the need for several other strategies to be considered, including more targeted crime prevention programs and law reform in relation to alcohol restrictions. The evaluation argued that resources must be provided for more rehabilitation centres, healing centres and alcohol counselling (Cunneen, Collings & Ralph 2005).

Failings were identified by the evaluation. These included the need for:

- the Queensland Police Service (QPS) to ensure that alternatives to arrest were used for Indigenous people and expansion of the Queensland Aboriginal and Torres Strait Islander Police (QATSIP) model beyond a small number of pilot communities to promote local people in policing roles
- the then Department of Aboriginal and Torres Strait Islander Policy to properly train and resource the community justice groups
- the Department of Justice and Attorney-General to resource and support Murri Courts
- the then Department of Corrective Services and the Department of Communities to provide community-based sentencing options
- negotiation tables to address justice issues in community action plans or local-level agreements.

The evaluation reported a lack of a sense of urgency on the part of the government in terms of meeting the primary objectives of the Agreement, and suggested more resources were required to support initiatives appropriately.

The evaluation made 15 recommendations to the Queensland Government which can be summarised as follows:

1. The Agreement and the broad principles within it should be retained. However, it was suggested that specific elements of the Agreement should be reconsidered in the light of more recent policy developments and that a closer focus should be developed on:
  - I. Diversion of Indigenous people from all stages of the criminal justice system.
  - II. Indigenous access and equity/equality before the law.
  - III. Effective Indigenous policy and programs for offenders.
2. That at least one further evaluation occur prior to completion of the Agreement and that there be ongoing independent auditing (e.g. by the Crime and Misconduct

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numbers and rates, as well as provide a comparison to non-Indigenous numbers and rates, in order to get a true picture of change. Numbers, rates and non-Indigenous comparisons are presented in this document.

- Commission (CMC).
3. That an Aboriginal and Torres Strait Islander Justice Advisory Council be established.
  4. That crime prevention funding should be provided as a matter of priority to target offending categories such as theft and unlawful entry for juveniles, and public order and justice related offences for adults and juveniles.
  5. Police should increase the use of conferencing and cautioning as alternatives to arrest.
  6. Expanded bail based programs should provide alternatives to custody.
  7. That an Indigenous Criminal Justice Research Agenda be developed to inform policy initiatives.
  8. Consideration be given to abolishing short sentences.
  9. That Justices of the Peace (Magistrates Courts) be independently evaluated.
  10. That there be increased access to legal representation and availability of interpreters.
  11. That the support for community justice groups be improved, including through the establishment of a statewide reference group.
  12. That increased support be provided to Murri Courts and an independent evaluation be undertaken.
  13. That the penalties applied under the alcohol restrictions in place be reviewed.
  14. That drug and alcohol courts be expanded and reformed.
  15. That the QPS expand the QATSIP scheme.

### ***The government's response to the five year evaluation***

In 2006, the government response to the five year evaluation re-endorsed the commitment to the goals of the Agreement, but with reporting to occur through the Partnerships Queensland framework which had replaced the 10 Year Partnership (Queensland Government 2006a).

The response acknowledged that criminal justice agencies alone can have a limited impact on the nature of Indigenous offending and emphasised the need for coordination and partnerships to effectively address this issue.

Of the fifteen recommendations made by the evaluation, the government response supported eight recommendations (recommendations 4, 5, 6, 7, 9, 10, 11 and 14), conditionally supported three (recommendations 1, 2 and 12), and did not support four (recommendations 3, 8, 13 and 15).

The response stated that innovative strategies would be developed to:

- reduce contact by Aboriginal and Torres Strait Islander people with the criminal justice system
- reduce Aboriginal and Torres Strait Islander offending
- reduce Aboriginal and Torres Strait Islander victimisation
- improve access by Aboriginal and Torres Strait Islander people to justice, and justice agency responsiveness to Aboriginal and Torres Strait Islander people.

The response committed the government to commissioning a further independent evaluation in 2011.

Table 1 provides a summary of the five year evaluation recommendations, the government response and brief details of implementation since that time.

### **Table 1: Five year evaluation recommendations, the government response and implementation details**

<b>Five year evaluation recommendations</b>	<b>Government response</b>	<b>Implementation</b>
1. Continuation of the Justice Agreement with some changes	Conditionally support	The Justice Agreement continued until its expiration in 2010.
2. Further audit (e.g. by the CMC) and evaluation of the Justice Agreement	Conditionally support	There has been limited further audit and evaluation of the Justice Agreement until this point. The CMC's 2009 report <i>Restoring Order: crime prevention, policing and local justice in Queensland's Indigenous communities</i> includes scrutiny of the Justice Agreement.
3. Aboriginal and Torres Strait Islander Justice Advisory Council	Not supported	Not applicable
4. Crime prevention especially for theft and unlawful entry of juveniles, public order and justice related offences	Supported	The Queensland Government continues to implement a range of responses to prevent Indigenous contact with the criminal justice system whenever possible, including for these categories of offences. For example, this has been an ongoing focus in implementing the Queensland Government's response to the CMC's report, <i>Policing Public Order: a review of the public nuisance offence</i> .
5. Police should increase the use of cautioning and conferencing as alternatives to arrest	Supported	Queensland police continue to encourage the use of diversionary measures whenever appropriate, particularly for young offenders. Recent research shows that police in Queensland are commonly cautioning and conferencing Indigenous young people as an alternative to arrest. This research shows that when the history of an individual offender's (i.e. unique offenders) contact with the youth justice system is considered, 82% of Indigenous offenders had been diverted by police to either cautioning or conferencing, compared to 89% of non-Indigenous offenders (see Little et al., in press).
6. Expanded bail based programs should provide alternatives to custody	Supported	A three year pilot of the Queensland Indigenous Alcohol Diversion Program (QIADP) commenced in July 2007 across three regions (Cairns, including Yarrabah, Townsville, including Palm Island, and Rockhampton, including Woorabinda). QIADP is a pre-sentence bail based court diversion program. In 2010, two pieces of evaluation research show that broadly QIADP was achieving its objectives, although areas for improvements have been identified.
7. Establish an Indigenous criminal research agenda to inform policy	Supported	The Indigenous Criminal Justice Research Agenda (ICJRA) was established in 2007-08. Seven substantial pieces of research have been commissioned to date under the ICJRA. These include, for example, the evaluations of QIADP and research regarding the extent of police cautioning and conferencing in Queensland. The results of these pieces of research inform future directions for reducing Indigenous over-representation in the criminal justice system.
8. Alternative approaches	Not supported	Not applicable
9. Independent evaluation of Justices of the Peace (JP) Magistrates Courts	Supported	An independent evaluation of Justices of the Peace (JP) Magistrates Courts was conducted in 2010.



10. Access to legal representation and availability of interpreters	Supported	Improving Indigenous people's access to justice is an ongoing priority for the Queensland Government. For example, in 2008 the Department of Justice and Attorney-General (DJAG) in conjunction with the National Accreditation Authority for Translators and Interpreters piloted Queensland's first successful training of Indigenous court interpreters to the paraprofessional level. Three Wik Mungkan language interpreters were trained to assist in the Aurukun Circuit Court. DJAG continues to support this program through ensuring interpreters attend the circuit court in Aurukun.
11. Support for Community Justice Groups, including through establishment of a statewide reference group	Supported	Responsibility for supporting community justice groups shifted to the Department of Justice and Attorney-General in 2006. <ul style="list-style-type: none"> <li>• An active program for providing training to the groups has been implemented since this time.</li> <li>• Training has been provided to interested Community Justice Group Co-ordinators and volunteer members through the delivery of a Certificate IV in Business (Governance) and operational court training.</li> <li>• The Statewide Community Justice Reference Group was established in 2008 and provides an important vehicle for community justice groups to give input to government on justice issues.</li> <li>• An independent evaluation of community justice groups was conducted in 2010 in response to a recommendation made by the 2009 CMC report <i>Restoring Order: crime prevention, policing and local justice in Queensland's Indigenous communities</i>.</li> </ul>
12. Increased support and an independent evaluation of Murri Court	Conditionally supported	An independent evaluation of Murri Court was undertaken by the Australian Institute of Criminology in 2010.
13. Review penalties under Alcohol Management Plans	Not supported	Not applicable
14. Drug and alcohol courts be expanded and reformed	Supported	Queensland continues to operate Drug Courts and also to involve the courts in innovative programs such as QIADP that address alcohol and substance misuse as an underlying cause of crime.
15. The QATSIP scheme be expanded	Not supported	Not applicable

## What does the data show during the 10 years of the Agreement?

The Agreement has not achieved its key aims of:

(1) A 50% reduction in the rate of Aboriginal and Torres Strait Islander peoples incarcerated in the Queensland criminal justice system by 2011.

(2) A longer-term aim to reduce the rate of Aboriginal and Torres Strait Islander peoples coming into contact with the criminal justice system to at least the same rate as other Queenslanders.

Figures regarding the rate at which Aboriginal and Torres Strait Islander people are incarcerated or detained have been published nationally since the time of the Royal commission into Aboriginal Deaths in Custody. The most recently published figures indicate that in Queensland over the life of the Agreement there has been an increase in the rate of incarceration

of Indigenous Queenslanders and young Indigenous peoples in detention remain over-represented.

### ***Aboriginal and Torres Strait Islander adult incarceration***

- Aboriginal and Torres Strait Islander adults made up 29% (n = 1,656) of those in prison in Queensland as at 30 June 2010 compared to 23% (n = 1,048) as at 30 June 2000.
- The rate at which Aboriginal and Torres Strait Islander adults are incarcerated has increased over time:
  - In 2000 the age standardised rate at which Aboriginal and Torres Strait Islander adults were incarcerated was 1,160 per 100,000 population, in 2010 it was 1,443. That is, this rate has increased 24% since 2000.
  - In contrast, the non-Indigenous imprisonment rate was 135 per 100,000 in 2000 and 121 per 100,000 in 2010.
  - The rate of imprisonment for Aboriginal and Torres Strait Islander prisoners was 12 times higher than the rate for non-Indigenous prisoners at 30 June 2010 (Australian Bureau of Statistics (ABS) 2010).<sup>3</sup>

### ***Aboriginal and Torres Strait Islander young people in detention***

Indigenous young people in detention remain over-represented. Between 30 June 2000 and 30 June 2008, the rate has increased by 5% from 244 (n = 60) to 256 (n = 81) per 100,000 persons aged 10 to 17 years, compared to a non-Indigenous rate decrease of 1% (from 11 to 10 per 100,000 persons aged 10 to 17 years (n = 42 & 45 respectively)).

Indigenous juveniles are 25 times more likely than non-Indigenous juveniles to be in detention as at 30 June 2008 (Richards & Lyneham 2010).<sup>4</sup>

### ***Other performance indicators***

Some of the other measures of Indigenous contact with the criminal justice system nominated in the Agreement have shown positive improvement. For example, there has been a reduction in the Indigenous rate of arrest and an increase in the rate of Indigenous people receiving community correction orders. Other measures, however, show there is no clear change or things have become worse. The five performance indicators nominated in the Agreement and the most recently available Queensland data up to 2009-10, are as follows:

1. Has there been a reduction in the number and rate of Indigenous people being arrested by police?

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<sup>3</sup> This data is based on the National Prisoner Census conducted by the ABS and provides a point in time measurement at 30 June, it does not provide a measure of the flow of prisoners through the year. Age standardised rates provide a 'true' comparison of Indigenous and non-Indigenous outcomes taking into account the different age structures of the two populations. It is known that the Indigenous population is (on average) younger than the non-Indigenous population and there is a close relationship between crime related issues and age. The crude imprisonment rate has also increased over this period: for Aboriginal and Torres Strait Islander adults in Queensland it was 1524 per 100,000 population in 2000, and 1756 per 100,000 adult population in 2010.

<sup>4</sup> Unlike other Australian jurisdictions which legally define juvenile offenders as those persons aged between 10 and 17 years inclusive, Queensland defines juvenile offenders, now referred to as young offenders, as those aged between 10 and 16 years inclusive. When calculating this statistic, however, Queensland data for offenders aged between 10 and 17 years inclusive were included.

- Between 2004-05 and 2009-10, in terms of actual numbers there was a 9% increase in Indigenous people arrested (from 21,692 to 23,716) and a 7% decrease in non-Indigenous people arrested (from 65,525 to 61,238).
  - Over the six year period from 2004-05,<sup>5</sup> police crime report data show that there was about a 6% reduction in the rate (from 21,533 to 20,213 per 100,000 population) at which Indigenous people are arrested by police (compared to a 18% drop for non-Indigenous people from 2,001 to 1,648 per 100,000 population).
  - This drop in Indigenous arrest rates has occurred despite a rise in the total number and rate of Indigenous offenders dealt with by police; the rate of Indigenous offending has increased by about 3% over the same period (compared to a 15% decrease in non-Indigenous offending).
  - Police have increasingly dealt with Indigenous people by way of notice to appear in court; the rate at which Indigenous people are dealt with by way of notice to appear has increased 16% over the six year period (compared to a non-Indigenous decrease of 10%) (Appendix 1: tables 1 to 4; figure 1).
2. Has there been an increase in the number and rate of Indigenous people being cautioned?
- Over the six year period from 2004-05, police crime report data show the number and rate of Indigenous cautions has fluctuated from year to year, but overall from 2004-05 to 2009-10:
    - number has increased by 15% from 2,852 to 3,270 (compared to a 7% increase for non-Indigenous people from 11,049 to 11,800)
    - the rate has decreased by 2% from 2,831 to 2,787 per 100,000 population (compared to a non-Indigenous decrease of 6% from 337 to 318) (Appendix 1: tables 1 to 4; figure 2).
3. Has there been a decrease in the number and rate of Indigenous people coming before the courts?
- Over a six year period from 2004-05 courts data show:
    - the number of Indigenous adults increased by 37% from 18,186 to 24,947 (compared to a decrease of 14% for non-Indigenous adults from 145,044 to 124,832)
    - the rate of Indigenous adults coming before the courts has increased by 16%<sup>6</sup> from 23,626 to 27,430 per 100,000 adult population (compared to a non-Indigenous decrease of 25% from 4,988 to 3,757)
    - a high rate of Indigenous adults continue to be prosecuted in Queensland's courts; in 2009-10 the rate was 27,430 per 100,000 adult Indigenous population compared to 3,757 per 100,000 adult non-Indigenous population (Appendix 1: tables 5 and 6).
4. Has there been a reduction in the rate of Indigenous people receiving custodial sentences?

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<sup>5</sup> While Indigenous status has been recorded by Corrections for more than a decade, reliable data are only available from 1 July 2004 onwards in police and courts data bases. This is because it was only from July 2003 that all agencies in the Queensland criminal justice system began recording answers to the standard Australian Bureau of Statistics (ABS) question for Indigenous self-identification ('Are you of Aboriginal or Torres Strait Islander origin?'). Currently, police record Indigenous status information and forward it to the courts where it is entered into court databases. The data quality has been improving with time and Indigenous status information has been sought and recorded in over 93% of cases in the QPS data.

<sup>6</sup> This increase may be due in part to significant improvements in the accuracy with which Indigenous status is recorded by the courts.

- Corrections data for the 10 year period from 2000 show the age standardised rate of Indigenous adult imprisonment in Queensland has increased by an average of 2.7% each year.<sup>7</sup> By comparison the non-Indigenous rate has decreased by an average of 2.3% each year (Appendix 1: table 7 and figures 3 and 4).

5. Has there been an increase in the number and rate of Indigenous people receiving community corrections orders?

- Corrections data show the number of Indigenous adults on community-based corrections orders in Queensland has increased by 43% since 2007 from 2,267 to 3,242 (compared to an increase of 18% for non-Indigenous persons from 10,317 to 12,208) and the rate has increased by 28% from 2,776 to 3,565 per 100,000 adult population (compared to a non-Indigenous increase of 9% from 337 to 367) (Appendix 1: table 9).<sup>8</sup>

While more needs to be done in Queensland, there are several important points to note about the evidence showing only limited success to date in reducing Indigenous over-representation in the criminal justice system that is presented here.

Firstly, the evidence presented by the Queensland data is not unique. Despite the policy effort of successive governments of all political persuasions, similar figures demonstrating little improvement in Indigenous over-representation are available in every jurisdiction (see Attachment 1, table 7 and figure 4 for examples of some of these data from other jurisdictions).

Secondly, it is also important to highlight that the data presented above considers the effectiveness of the Government's efforts to address over-representation at a macro level (i.e., state-wide). Efforts to address Indigenous over-representation may apply statewide, but most on the ground initiatives are geographically specific and provide a response in certain locations. Inroads that are being made in reducing Indigenous over-representation at this local level or through certain programs are not reflected in these macro level data. In order to show significant outcomes at a macro-level of analysis, there needs to be significant change at the micro-level (i.e. at the local level) and that change needs to be in a consistent direction (i.e. consistently reducing over-representation). To better demonstrate the effectiveness of efforts to reduce over-representation, future research should consider the importance of monitoring and evaluation at the local level. Only by knowing which programs work best and where they work best at a micro level can we hope to better understand results observed at a macro-level and hope to influence those results for the better.

Thirdly, a long term commitment is required to bring about significant change in these macro level data. While considering performance indicators such as reduced rates of Indigenous incarceration remains important in the shorter term, it may be realistic to expect to see improved outcomes (especially at the statewide or macro level) only after substantial periods of time. This has been acknowledged to be the case in relation to the Council of Australian Government's (COAG) generational commitment to achieving *Closing the Gap* targets to reduce Indigenous disadvantage.

Finally, as noted in the Agreement at the time of its signing in 2000, most of the data required to assess the five outcome indicators nominated in the Agreement were not collected or available for use to measure the effectiveness of the Agreement (Queensland Government 2000, p. 11).

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<sup>7</sup> This increase does not match that reported by the ABS presented above due to differences in methods of calculation. The above increase reflects the rate of change from year to year as calculated using a trend line. The ABS calculation reflects the rate of change as a proportion of the first year of data collection.

<sup>8</sup> It should be noted that ABS has only recently started publishing these data and they are described as experimental only. An appropriate comparison (e.g., total number of sentences issued) is not currently available and therefore these data should be interpreted with caution.

While the need for continued improvement in this area remains, Queensland has made significant improvements to the quality of its criminal justice data since the Agreement's inception. Perhaps most notably, information about the Indigenous status of people coming into contact with the criminal justice system has been reliably recorded by police and courts since 2004-05.<sup>9</sup> Police crime report data and court data provide two of the major sources of information about offending and offence patterns. However, these data can only be used to assess the second half of the Agreement's operational period.

## **Why didn't the Agreement achieve its central aims?**

A combination of factors that relate to the Agreement's fundamental strategic approach and its implementation has resulted in the limited success achieved under the Agreement. Such factors include:

- an insufficient focus on preventing/reducing crime
- a lack of focus on what works to reduce offending
- a failure to target effort
- fractured governance and accountability.

### ***Insufficient focus on preventing/reducing crime***

The most significant gain over the 10 year period of the Agreement has been the implementation and consolidation of fairer and more responsive practices within our justice system that increase the positive involvement of Aboriginal and Torres Strait Islander people. These include:

- *Murri Court*, which involves Elders and Community Justice Group members in the court process and in determining the appropriate sentence for offenders who plead guilty to certain offences in a Queensland Magistrates court.
- *Community Justice Groups*, which involve local people in local justice-related issues. Group members support victims and offenders at all stages of the legal process, and are able to make submissions to the court on relevant matters in bail and sentencing hearings.
- *Justices of the Peace (JP) Magistrates Court*, which involves trained Indigenous people in remote communities who are able to convene their own magistrates court to deal with simple offences, domestic violence applications, by-laws, traffic matters, bail and remand.

The need for high levels of Aboriginal and Torres Strait Islander engagement and ownership of future initiatives is irrefutable. This must remain central to all efforts to improve crime and justice outcomes for Aboriginal and Torres Strait Islander people in Queensland.

While these improvements are very important, both the five year evaluation and the more recent Crime and Misconduct Commission (CMC) report on policing in Indigenous communities, *Restoring Order* (CMC 2009), suggest the Agreement was fundamentally flawed from the outset. It is argued that the Agreement provided insufficient focus on initiatives with a close nexus to reducing over-representation. In particular it was proposed that there was insufficient focus on crime prevention, particularly early intervention and community-focused interventions.

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<sup>9</sup> In January 2003 it became mandatory for Queensland police officers to ask all offenders the question: Are you of Aboriginal or Torres Strait Islander origin? After an initial transition period, this data considered to be reliably recorded from 2004-05. In 2009-10, 5% of police crime report data was missing this crucial variable.

The CMC report notes the failure of the Agreement to 'identify high rates of crime as one of the main reasons for Indigenous over-representation in the criminal justice system' (p. 17). Furthermore the report argues that the Agreement was too focused on criminal justice system initiatives, particularly those likely to lead to a fairer and more responsive criminal justice system, rather than initiatives that could most effectively prevent or reduce crime. The report concludes that while there can be no doubt that improving the operation of the justice system is important, the nexus between criminal justice initiatives promoted by the Agreement and reducing Indigenous over-representation in the criminal justice system is weak.

While the details of the argument are different, the five year evaluation also suggests that the identification and discussion of the causes of Indigenous over-representation is the weakest part of the Agreement. Consequently, the ability to develop effective programs and strategies to reduce over-representation was limited under the Agreement.

In recent years, Don Weatherburn and others at the NSW Bureau of Crime Statistics and Research (BOCSAR) have led the way in terms of using empirical research to test the relative contribution of different causes of Indigenous over-representation and incarceration (e.g. differential involvement in offending vs. systemic bias/discrimination).

Their evidence suggests that while systemic bias<sup>10</sup> does exist and may lead to more negative outcomes for Indigenous people in the criminal justice system, Indigenous offending patterns are a key cause of Indigenous over-representation. For example, the fact that Indigenous children begin offending at younger ages, re-offend in higher numbers and offend more seriously is shown by such research to result in higher rates of imprisonment (Snowball & Weatherburn 2006; Weatherburn, Fitzgerald & Hua 2003; Weatherburn & Fitzgerald 2006).

Queensland specific evidence, including research conducted under the Indigenous Criminal Justice Research Agenda (ICJRA) which was established as recommended by the five year evaluation, also shows this pattern of Indigenous offending (e.g. see Allard et al. 2009; CMC 2009; Little et al., in press; Livingston et al. 2008; see also Lynch, Buckman & Krenske 2003). In addition, recent research on sentencing disparities in Queensland has been conducted through the ICJRA. This research, which statistically controls for a range of factors that may impact on sentencing outcomes, provides support for the notion that the apparent differences in sentencing outcomes between Indigenous and non-Indigenous offenders are largely the result of differential involvement in offending (Bond, Jefferies & Loban, in press). That is, the report presents evidence that previous criminal history is the most significant driver of sentencing outcomes for Indigenous offenders, although remand status was also predictive of sentencing outcomes.

In recent years it has been increasingly suggested, and supported by the evidence, that there has not been a strong enough focus on reducing Indigenous offending in order to substantially alter Indigenous over-representation (see CMC 2009; Pearson 2007; Weatherburn & Fitzgerald 2006). Research and stakeholder consultations have confirmed that creating safer Indigenous communities will require a reduction in offending. Reducing offending will in turn lead to reduced Indigenous incarceration and victimisation rates.

The Queensland Government should replace the Agreement with a strategy that provides a much stronger focus on reducing offending. It is through such a focus that inroads will be made in reducing victimisation and also Indigenous over-representation in the criminal justice system.

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<sup>10</sup> Systemic bias does not necessarily imply racism or discrimination issues. Issues such as limited funding for legal services, a lack of services such as diversionary options and rehabilitation programs in remote and regional areas, or the adverse exercise of police discretion may amount to systemic bias.

### ***A lack of focus on what works to reduce offending***

The last 10 years have seen the body of criminological evidence develop a great deal through the use of scientific methods to provide better information about ‘what works’ to reduce offending.<sup>11</sup> Combined with community views and operational knowledge, such research can provide the evidence necessary to promote best practice and what must be done to reduce Indigenous offending.

There is strong evidence in the criminological literature that identifies risk factors for offending and persistent offending. There is less evidence regarding protective factors. The limited Indigenous and Queensland specific research available suggests that the risk factors identified for offenders generally, also apply to Indigenous offending. However, there are likely to be some differences between the risk and protective factors for Indigenous and non-Indigenous offenders. For example, the risk factors associated with alcohol use, unemployment and the spatial concentration of socio-economic factors may be particularly strong for Indigenous offending (Allard 2010). Cultural factors and the impact of stolen generations may also uniquely impact as risk factors for crime among Indigenous people. There has been little work done to identify specific protective factors that apply for Indigenous peoples. Attachment 2 provides a summary of the research on risk and protective factors for offending and victimisation.

The future strategy for tackling over-representation must be driven by the growing body of scientific evidence regarding what works to reduce offending, with a focus on risk and protective factors for offending. Furthermore, this strategy must continue to contribute to the development of the evidence of what works (and what does not work) to reduce offending by Indigenous people.

It is not correct to assert that ‘nothing works’ to reduce offending. There is now considerable high-quality evidence that various programs or strategies can effectively reduce offending or re-offending. Generally this evidence suggests that successful interventions produce benefits across multiple outcomes (i.e. participants will do better not just in terms of reduced offending, but also in terms of health, education and employment outcomes, for example).

There is a great deal of high quality evidence showing that certain programs early in life and in the school years can produce relatively large effects in preventing later offending. Such programs include nurse home visiting, providing quality pre-school programs that also give support to parents and families, and promoting education attainment and achievement. Successful programs tend to provide support and training both to the parent and the child, and they tend to involve the family and the school. They require a substantial amount of direct contact (e.g. 30-40 hours) between program staff and the family. They also have to be delivered by well trained staff that have experience working with children (see Weatherburn 2004).

Improving the level of support provided to Indigenous children and parents should be a focus of ongoing efforts to reduce Indigenous offending in Queensland at every possible stage in the criminal justice system. For example, there is potential to improve access to and use of parenting programs for caregivers of Indigenous youth who are diverted through mainstream practices such as cautioning and conferencing and to deliver parenting programs to Indigenous fathers in prisons. There is also potential to provide referral to services targeting assessed risks of

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<sup>11</sup> Over several decades scientific methods have increasingly been applied to develop a substantial base of evidence regarding ‘what works’ to reduce crime and offending. While there are limitations of the ‘what works’ framework, which is built upon scientific evaluations of crime prevention programs, it provides objective criteria on which evidence can be assessed and allows a strong cumulative picture to be built over time.

diverted Indigenous youth and for widespread use of multi-modular programs based on a Multi-Systemic Therapy (MST) framework which target serious and high-risk offenders.

Other community-based efforts that may reduce Indigenous offending include support for 'ground-up' efforts led by Indigenous people, perhaps especially men, to challenge the use of alcohol and violence within Queensland's Indigenous communities. For example, 'social marketing' strategies such as the Normanton Stingers 'Domestic Violence it's not our Game' initiative have been very successful in this respect. There is also evidence to suggest that high quality mentoring programs and wilderness challenge programs have potential to make a positive impact. High quality mentoring programs are characterised by features such as the appropriate level of training and supervision of mentors, mentoring activities based on the needs of the participant, and for Indigenous programs particularly having strong links with the Indigenous community and services, for example (National Crime Prevention 2003; Joliffe & Farrington 2007; Tarling, Davison and Clarke 2004)). It is also worth noting the difference between wilderness programs and boot camps as research has shown these programs to be differentially effective in producing behaviour change.<sup>12</sup>

In general, the evidence points to the conclusion that the criminal justice system can be effective at preventing crime when it provides appropriately intense supervision, support and treatment for offenders and actively involves their families. This appears to be true for those on diversionary options, on sanctions imposed by the courts, in prison or on community-based orders.

The evidence suggests that it is essential for Indigenous people to have maximum access to and utilisation of alcohol and substance abuse programs to further reduce offending. Such programs must acknowledge the reality that many offenders will have multiple charges, previous criminal convictions, co-existing mental illness and be convicted of serious violent offences (Snowball & Weatherburn 2007).

It should be noted that radical changes have been implemented during the course of the 10 year period of the Agreement in an attempt to address the nexus between alcohol misuse and crime and violence in Indigenous communities in Queensland.<sup>13</sup> Efforts have also been directed to designing and testing alcohol treatment and rehabilitation options available for Indigenous people in Queensland, including through the criminal justice system. A three year pilot of the Queensland Indigenous Alcohol Diversion Program (QIADP) commenced in July 2007 in three regions, each involving outreach to an Indigenous community: Cairns with Yarrabah, Townsville with Palm Island and Rockhampton with Woorabinda. The courts are able to refer adult Aboriginal and Torres Strait Islander people to this program for alcohol treatment where alcohol contributed to their offending. Referrals to the program can also be made through the child-

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<sup>12</sup> Programs which engage youth in physical outdoor activities for the purpose of addressing problem behaviours have been labelled in a number of different ways including: wilderness programs, wilderness camps, boot camps, wilderness boot camps and wilderness therapy programs. Wilderness programs typically rely on therapeutic elements to address issues of low self-esteem, poor communication skills and a lack of self-awareness (Russell 2003). Boot camps were created as an alternative to jail and use punishment, confrontation and deprivation to teach self-discipline and respect for, and compliance with, authority (Tarolla, Wagner, Rabinowitz & Tubman 2002). Research has shown that boot camps are successful in producing immediate and short-term changes in behaviour. However, they are not able to produce long term behaviour change and have, in some instance, been found to have an unintended impact on participants (e.g. post traumatic stress disorder) (Russell 2003; Tarolla et al. 2002). In contrast, wilderness programs which engage trained professionals operating within established therapeutic models (e.g. Cognitive Behaviour Therapy) have proven to be effective in addressing substance abuse and behavioural disorders, and in producing long term behaviour change (Russell 2003; Tarola et al. 2002).

<sup>13</sup> For example, in July 2001 Tony Fitzgerald's *QC Cape York Justice Study* resulted in the introduction of alcohol restriction for many Indigenous communities (Fitzgerald 2001).



protection system. An independent evaluation of the program was completed in 2010 and the results suggest that more work must be done to ensure the program is as cost effective as possible.

The need to break the nexus between alcohol and offending must continue to be a focus of government strategies to improve Aboriginal and Torres Strait Islander crime and justice outcomes in Queensland.

Research has indicated that Indigenous prisoners are far more likely to be readmitted to prison (Willis 2008), therefore resources devoted to increasing access to and the intensity of pre-release and post-release programs for Indigenous offenders which target risk factors such as substance abuse, family violence, anger management and sex offending may reduce offending. There may also be potential for reducing Indigenous offending through increased access to mental health services within corrections and greater use of employment focused programs after corrections, especially where an employment focus is combined with a range of other supports including supportive housing.

Attachment 3 provides further details of the research evidence about what works.

The evidence also suggests that a re-examination is now warranted of the continuing focus on increasing diversion as a means to reduce Indigenous over-representation in the criminal justice system. The CMC's *Restoring Order* report (2009) summarises the evidence and concludes that in Queensland's Indigenous communities where offending is known to be common, often violent and relatively widespread, strategies that only 'divert from' custody or the criminal justice system are unlikely to provide any meaningful contribution to reducing Indigenous over-representation.

The report also proposes that increased use of 'diversion from' custody or the criminal justice system should be encouraged throughout Queensland on grounds other than those relating to crime prevention. For example, 'diversion from' strategies are likely to be very effective in reducing the number of people in custody and reducing the risks associated with keeping people in custody; they may also be the most cost-effective response for many offenders likely to desist from offending quickly anyway, without the need for interventions based on treatment and support. Diversion strategies should not, however, be seen as the panacea for Indigenous over-representation in the criminal justice system.

More recent Queensland research conducted by Griffith University shows that police are commonly using the cautioning and conferencing diversionary options to respond to young Indigenous offenders. When considering all offenders born in 1990 who had contact with the Youth Justice System:

- 79.9% of Indigenous offenders received a caution at some point during their offending history; 75.9% of Indigenous offenders were cautioned on their first contact with the criminal justice system
- 12.7% of Indigenous offenders were referred by police to a youth justice conference at some point during their offending history; 2.8% were referred to a conference on their first contact with the criminal justice system (Little et al., in press).

This may suggest that some diversionary options, particularly cautioning, are already being used extensively and close to maximum effect and that there may be little further potential for police to further increase its use as a diversion from the system (cf. Cunneen 2007a). However, there is considerable potential for cautioning to be combined with referral to services targeting assessed risks.

To summarise the relevant evidence base, although it is still heavily reliant on overseas research or Australian research which is not Indigenous focused, the following three areas are most

likely to achieve results in reducing Indigenous offending:

1. preventing offending (better support to families through early childhood development programs and parenting support; through multiple gateways such as providing parenting programs through school, through the courts and to offenders in prison)
2. preventing re-offending (interrupting the development of offending through the use of parenting programs for the caregivers of diverted youth and referral to services for diverted youth; use of high quality mentoring and wilderness challenge programs for at-risk youth; targeting high-risk and persistent offenders through use of multi-modular programs; and improving access to and intensity of post-release correctional programs targeting risk factors).
3. reducing alcohol and substance abuse.<sup>14</sup>

The focus on addressing the causes of disadvantage should have associated benefits in terms of reducing offending.

### ***Failure to target effort***

As was identified in the evaluation, the Agreement covers a very wide range of criminal justice processes and provides little guidance about how strategies should be prioritised to achieve the desired outcome of reducing over-representation (Cunneen, Collings & Ralph 2005). Initiatives were developed under the Justice Agreement in a fairly 'organic' manner, that is, on a wide range of issues, at the request of various communities, and through various departments. There was no formal or rigorous process for identifying highest need, highest risk, or those likely to provide the best results for Indigenous people for the expenditure involved. In this sense the Agreement failed to ensure that resources flowed to support the implementation of what works to reduce offending in the most effective way.

All the evidence, including the 'what works' and the justice reinvestment frameworks, suggests that a coordinated response to key patterns emerging from criminal justice system data and community information must play a vital part in both reducing Indigenous offending and over-representation. This includes targeting responses to key features of Indigenous offending patterns – such as the prevalence of violent offending, the earlier onset of offending behaviour, the greater persistence of offending and the strong links with alcohol consumption. However, other key patterns to emerge from criminal justice data must also be considered, including at the place-based level. Such patterns may include the following examples.

- Remand. Incarceration occurs in two ways: being remanded without bail and being sentenced to a term of detention or imprisonment. The issues connected to reducing each type of incarceration are distinct and the high proportion of Indigenous adults and young people in detention or prison on remand in Queensland warrants attention. A study of high remand rates of Indigenous young people in youth detention revealed that a lack of accommodation, limited access to bail programs and limited access to diversionary options were significant factors in high levels of remand (Mazerolle & Sanderson 2008). In 2009, a Queensland Remand Working Group was established to

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<sup>14</sup> It should be noted that the current climate provides a strong platform for improving outcomes and reducing offending through prioritising these areas, especially in terms of early childhood and parenting support. Concerted state and national efforts under the Closing the Gap framework includes specific initiatives being resourced to improve outcomes in the areas of health, housing and early childhood. Linked to the Closing the Gap framework are national level policy commitments being developed in the areas of justice and community safety. Key strategies include the: National Indigenous Reform Agreement; Indigenous Early Childhood Development National Partnership; National Indigenous Law and Justice Framework; National Framework for Protecting Australia's Children; the response to Time for Action: The National Council's Plan for Australia to Reduce Violence against Women and their Children.

consider the issue of high remand numbers in adult prison. The Working Group identified the lack of suitable accommodation as being a major cause of Indigenous adults being refused bail. Similarly, in research conducted by Sanderson, Mazerolle and Anderson-Bond (in press), a sample of key stakeholders, including representatives from community justice groups, magistrates and the QPS, identified the availability of suitable accommodation for offenders as a significant contributor to Indigenous over-representation among the Queensland custodial remand population. Stakeholders also identified legal variables, offender characteristics (e.g. disadvantage, alcohol abuse and addition, homelessness), access to competent legal representation and the availability of bail and treatment programs and diversionary options as key contributors to Indigenous over-representation. Strategies that allow for the numbers of Indigenous people on remand to be reduced as much as possible may provide an important avenue to reduce Indigenous over-representation in custody (see also Fitzgerald 2001).

- Geographical concentration of juvenile offenders in some areas. For example, communities such as Aurukun and Woorabinda are known to have a high proportion of juvenile offenders, often involved in property offending (see CMC 2009). Such patterns suggest that specific responses are required in these areas. Developing a better understanding of these patterns may help to implement specifically targeted situational crime prevention responses, or targeted programs to address the underlying causes of categories of offending.
- High rates of licensing and traffic offences and justice process offences. Indigenous people continue to be over-represented for these types of offences. Indigenous people have high rates of breach of justice process offences including failure to appear, breach of bail conditions and breach of domestic violence order. Strategies must be targeted at reducing these types of offending.

To improve Indigenous justice outcomes, initiatives must be targeted to respond to particular patterns that emerge from the data. These may include a specific focus on: remand issues and improving placement support services; initiatives responding to particular offending patterns such as the prevalence of licensing and traffic offences, or breach of justice process offences; or the well known concentration of juvenile offenders in some areas. At the place-based level, close consideration of offending patterns for particular types of offending, for example, sexual assault or property offending, can inform strategies to be implemented locally, such as situational crime prevention approaches.

### ***Fractured governance and accountability***

The Agreement sought to establish a collaborative whole-of-government and whole-of-community framework to determine priorities for all relevant agencies across the Queensland Government and with Aboriginal and Torres Strait Islander people. Such large scale collaboration is complex and requires strong and sustained governance.

Ongoing changes in the structures in place for leading and monitoring the Agreement resulted in a lack of any strong sense of ownership or clear lines of responsibility for its implementation and success. This is true both within government where there were multiple changes in the governance arrangements, and in terms of its collaboration with Aboriginal and Torres Strait Islander people (as the Aboriginal and Torres Strait Islander Board that was a signatory to the Agreement was disbanded by the government in 2003, for example).

The fractured governance and accountability arrangements seen over the life of the Agreement also added to the difficulty of adjusting and refining the approach taken under the Agreement, even as it became clear that the Agreement was not achieving what was desired. While the

commitment to a 10 year strategy can be justified on the basis that it recognises the sustained long term commitment required to impact on complex entrenched disadvantage, it also meant the Agreement framework persisted in its original form despite a continuous stream of new and unfolding evidence.

The lesson that has been learnt from the Agreement in terms of governance and accountability arrangements is that in order to be effective in the future an Indigenous justice strategy must:

- Be accorded stable, high-level governance arrangements across government (both justice and related agencies) charged with the authority to lead initiatives and to play an ongoing, active role in the strategy's implementation, including responding with agility to impediments arising or new information.
- Ensure ongoing involvement, consultation, and negotiation with Aboriginal and Torres Strait Islander people at the local level.
- Include short-term and place-based targets and/or performance measures in which changes could reasonably be expected to be seen during the life of the strategy. Longer-term and statewide targets may still be identified in the future strategy but these should not be the only measures of performance on which the strategy will rely.

## **The way forward**

On the basis of the lessons learnt from the Aboriginal and Torres Strait Islander Justice Agreement it is proposed that the approach and strategy to replace it from 2011 should be different in some fundamental ways.

The evidence suggests that the focus must be strongly on reducing Indigenous offending. This represents a fundamental shift in the approach to reducing over-representation which has in the past been primarily focused on ensuring a fair, just and culturally appropriate criminal justice system. Both research and stakeholder consultations confirm that creating safer Indigenous communities requires a reduction in offending.

Work to ensure that the criminal justice system provides a safe and fair response to Indigenous people, must of course continue. It should not, however, be the key focus of the future strategy to reduce Indigenous over-representation.

There is no doubt that to effectively reduce Indigenous offending, and thereby make substantial inroads into reducing Indigenous victimisation and over-representation, a high level of Indigenous ownership, local participation and involvement is necessary. Encouraging local solutions to crime and offending issues is vital to moving forward. Ongoing community engagement and involvement in service delivery can be facilitated through community safety planning. Community safety plans will be implemented as part of the State Government's commitments under the Council of Australian Governments' (COAG) Urban and Regional Service Delivery Strategy and the Remote Service Delivery Strategy.

Very importantly, there is a need for new and existing programs and responses to accord with the 'what works' evidence. A new Indigenous justice strategy must respond to key Indigenous offending patterns, including at the local level. In this way resources can be targeted at high risk communities or groups, and can be tailored to patterns emerging in the data. Such an approach is reliant on good quality data and analyses. Furthermore, programs must be rigorously evaluated and these evaluations feed into the development of a scientifically sound evidence base of 'what works with Indigenous peoples'.

The new strategy must adopt a 'place-based' approach as a method of prioritising service delivery throughout Queensland and involve identifying needs and gaps in service delivery at the local level. Areas of high need will be identified based on evidence of offending, assessing services currently being delivered in specific locations, including under the National Partnerships Agreements, and identifying additional services required to address risk factors and reduce offending. It is by building a strong foundation of local/micro level evaluations that change will ultimately be brought about at the statewide/macro level.

The evidence about what works suggests that a focus on early intervention and prevention in the early years and at school is likely to produce the largest effect in terms of positive outcomes in the future. Currently there is a patchwork of early childhood programs operating but with little focus on achieving crime prevention objectives. More could be done to harness the capacity of schools to provide important crime prevention outcomes through strategies that provide support and training to parents and children, and promote educational achievement and attainment. 'What works' evidence also clearly points to the need to:

- Improve the level of intensity and effectiveness of support and treatment provided to persistent/prolific Indigenous offenders such as through the use of multi-modular programs based on a Multi-Systemic Therapy framework and correctional programs targeting risk factors. Improving the outcomes with this group has the potential to substantially impact on crime rates and over-representation.
- Interrupt the development of offending through the use of parenting programs for the caregivers of diverted youth, referral to services to address assessed risks of diverted youth, and use of high quality mentoring and wilderness challenge programs for at-risk youth.
- Maximise access to and use of effective alcohol and other drug treatment programs for offenders, including by building the capacity to provide successful programs at the local level.
- Build our evidence base in Queensland about what works to reduce Indigenous offending over the longer-term, including by improving our knowledge and understanding of crime patterns and what works at the local level.

Finally, in terms of ensuring that past mistakes are not repeated, there is a need for committed governance and accountability structures that ensure ongoing oversight of resourcing, implementation and the monitoring of outcomes. The new strategy must:

- provide stable and high-level governance structures responsible throughout for the strategy's implementation; these governance structures must be able to influence the allocation and reallocation of resources
- be responsive to changes in offending patterns and risk factors by monitoring and analysing available data and based on local knowledge and information
- provide measurable key performance indicators and a rigorous program of evaluation and monitoring; in this way the new strategy can be a vital part of building the evidence base over time and ensure that new evidence is responded to appropriately.

## **Conclusion**

It is recognised that the Justice Agreement did not achieve its intended outcomes for a number of reasons, including a lack of a strong focus on reducing offending, the broad-brush approach taken to implementation across the state and across the justice system rather than targeting areas of most need, and the lack of strong and consistent leadership and governance in overseeing implementation and progress. Any future Indigenous justice strategy must recognise and address these past deficiencies.

The lessons that need to be learnt and responded to, in any future strategy include:

1. To effectively reduce Indigenous offending, and thereby reduce Indigenous victimisation and over-representation, there is a need for the introduction of evidence based programs that have been demonstrated to make a difference, and are rigorously implemented and evaluated to ensure that services are effective.
2. To ensure effective implementation, a high level of Indigenous ownership, local participation and involvement is necessary, together with a committed governance structure that provides ongoing oversight of resourcing, implementation and the monitoring of outcomes.

The proposed Aboriginal and Torres Strait Islander Justice Strategy 2011-2013 will need to clearly address the above issues to ensure that any future efforts actually do reduce offending, and improve outcomes for Aboriginal and Torres Strait Islander communities, families and children.

## Attachment 1 Queensland data measuring Indigenous over-representation<sup>15</sup>

### 1. Has there been a reduction in the rate of Indigenous people being arrested by police?

Tables 1 and 2 present the number and rate of Indigenous adult and young offenders (aged 10-16 years) in police crime report data and the type of police action taken against them over the past six years.

**Table 1: Number of Indigenous offenders (adults and youth) and type of police action taken, 2004-05 to 2009-10**

	Year	Number of Indigenous offenders dealt with via:							
		Total	Arrest	Caution	Comm. Conf.	Notice to Appear	Summons	Warrant	Other
Adult (17+ years)	2004-05	32,510	17,210	55	13	13,532	148	144	1,408
	2005-06	34,960	17,128	47	20	15,854	86	246	1,579
	2006-07	35,042	16,942	70	4	16,167	70	234	1,555
	2007-08	34,836	17,317	48	11	16,197	16	144	1,103
	2008-09	39,721	18,038	69	3	19,653	27	202	1,729
	2009-10	41,196	18,708	54	7	20,349	9	148	1,921
Youth (10-16 years)	2004-05	11,929	4,482	2,797	566	3,776	23	10	275
	2005-06	11,839	4,134	3,130	691	3,565	12	12	295
	2006-07	12,276	4,810	2,996	613	3,574	21	11	251
	2007-08	10,849	4,670	2,579	493	2,906	1	13	187
	2008-09	10,134	3,970	2,581	480	2,925	1	12	165
	2009-10	12,078	5,008	3,216	645	2,992	0	17	200
Total	2004-05	44,439	21,692	2,852	579	17,308	171	154	1,683
	2005-06	46,799	21,262	3,177	711	19,419	98	258	1,874
	2006-07	47,318	21,752	3,066	617	19,741	91	245	1,806
	2007-08	45,685	21,987	2,627	504	19,103	17	157	1,290
	2008-09	49,855	22,008	2,650	483	22,578	28	214	1,894
	2009-10	53,274	23,716	3,270	652	23,341	9	165	2,121

Source: QPS Statistical Reviews 2004-05 to 2009-10.

**Table 2: Rate of Indigenous offenders (adults and youth) and type of police action taken, 2004-05 to 2009-10**

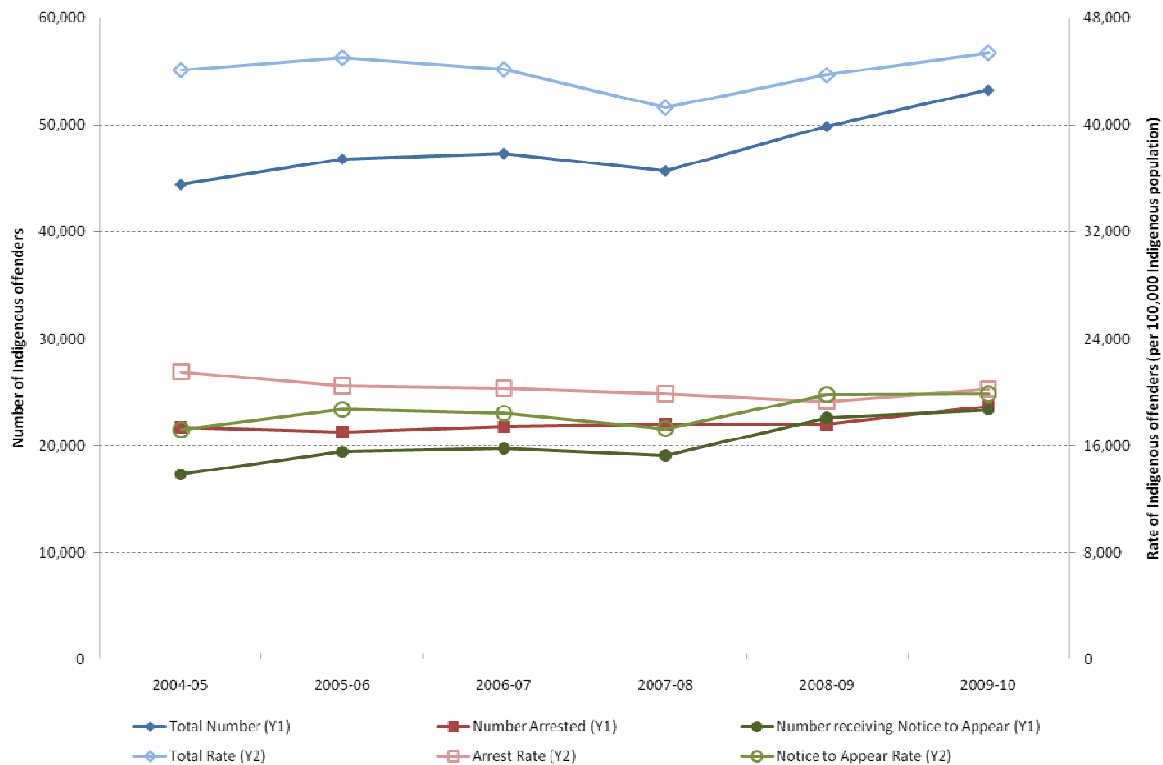
	Year	Rate per 100,000 population dealt with via:							
		Total	Arrest	Caution	Comm. Conf.	Notice to Appear	Summons	Warrant	Other
Adult (17+ years)	2004-05	42,234	22,358	71	17	17,580	192	187	1,829
	2005-06	44,156	21,634	59	25	20,025	109	311	1,994
	2006-07	42,915	20,748	86	5	19,799	86	287	1,904
	2007-08	41,194	20,477	57	13	19,153	19	170	1,304
	2008-09	45,281	20,563	79	3	22,404	31	230	1,971
	2009-10	45,296	20,570	59	8	22,374	10	163	2,112
Youth (10-16 years)	2004-05	50,202	18,862	11,771	2,382	15,891	97	42	1,157
	2005-06	47,887	16,721	12,660	2,795	14,420	49	49	1,193
	2006-07	48,202	18,886	11,764	2,407	14,033	82	43	986
	2007-08	41,708	17,953	9,915	1,895	11,172	4	50	719
	2008-09	38,553	15,103	9,819	1,826	11,128	4	46	628
	2009-10	45,781	18,983	12,190	2,445	11,341	-	64	758
Total	2004-05	44,113	21,533	2,831	575	17,181	170	153	1,671
	2005-06	45,044	20,465	3,058	684	18,691	94	248	1,804
	2006-07	44,172	20,306	2,862	576	18,428	85	229	1,686
	2007-08	41,315	19,884	2,376	456	17,276	15	142	1,167
	2008-09	43,729	19,304	2,324	424	19,804	25	188	1,661
	2009-10	45,296	20,570	3,270	652	22,374	9	163	2,112

<sup>15</sup> Unless it is explicitly stated to be otherwise, offender counts in this paper do not refer to individual offenders. That is, unless it is otherwise stated, offender counts are not 'unique offender' counts as the same individual will be counted multiple times where multiple offences are recorded in police data.

	2009-10	45,405	20,213	2,787	556	19,893	8	141	1,808
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Source: QPS Statistical Reviews 2004-05 to 2009-10; Office of Economic and Statistical Research (OESR), Synthetic Estimated Resident Populations by Indigenous status, age and sex for Queensland Statistical Local Areas, <http://www.oesr.qld.gov.au/subjects/demography/atsi-people/tables/synthetic-pop-est-indigenous-status/index.php>

Data from Tables 1 and 2 regarding numbers and rates of all Indigenous offenders dealt with by arrest, notice to appear and in total, are presented in Figure 1.



**Figure 1: Number and rate of all Indigenous offenders dealt with by arrest, notice to appear and in total, 2004-05 to 2009-10**

Source: QPS Statistical Reviews 2004-05 to 2009-10; Office of Economic and Statistical Research (OESR), Synthetic Estimated Resident Populations by Indigenous status, age and sex for Queensland Statistical Local Areas, <http://www.oesr.qld.gov.au/subjects/demography/atsi-people/tables/synthetic-pop-est-indigenous-status/index.php>

Note: In Tables 1 and 2, and in Figure 1 the decrease in the number and rate of Indigenous offenders in 2007-08 that can be seen is most likely due to the loss of some Indigenous status data in conjunction with the change to the new police QPRIME database. Since 2007-08 offenders with 'unknown' Indigenous or non-Indigenous status have had a status assigned using previous offender history (e.g. if an offender has ever identified as Indigenous in previous offences, then they will be categorised as Indigenous even if they have unknown/refused status at the time of the subsequent offending). The adoption of this practice is likely to contribute to an increase in the number and rate of reported Indigenous offenders in subsequent years.

Tables 1 and 2, and Figure 1 show that:

- Comparing 2004-05 to 2009-10 shows a 6% drop in the rate at which Indigenous people are arrested.
- This drop in arrest rates has occurred within the context of a rise in the total number and rate of Indigenous offenders; the rate of Indigenous offending has gone up about 3% over the same period.
- Police have increasingly dealt with Indigenous people by way of notice to appear in court; the rate at which Indigenous people are dealt with by way of notice to appear has increased 16% over the six year period.



- Otherwise, there has been relatively little change over time in the type of police action used to respond to Indigenous offenders.

Looking across Table 2, it can also be seen that there is a different pattern among Indigenous adult arrest rates in comparison to Indigenous youth arrest rates. For adults there was a marked decline between 2004-05 and 2006-07 and little subsequent change. In contrast youth rates show considerable year to year variation and no overall trend.

Tables 3 and 4 show these data for non-Indigenous offenders.

**Table 3: Number of non-Indigenous offenders (adults and youth) and type of police action taken, 2004-05 to 2009-10**

	Year	Number of non-Indigenous offenders dealt with via:							
		Total	Arrest	Caution	Comm. Conf.	Notice to Appear	Summons	Warrant	Other
Adult (17+ years)	2004-05	173,059	61,586	487	310	94,730	811	836	14,299
	2005-06	184,866	62,618	595	70	104,723	701	1,116	15,043
	2006-07	187,032	67,039	573	64	103,506	571	1,203	14,076
	2007-08	156,930	58,483	728	343	86,903	215	628	9,630
	2008-09	163,695	56,866	1,126	137	94,311	291	705	10,259
	2009-10	166,396	56,487	858	70	96,898	194	741	11,148
Juvenile (10-16 years)	2004-05	22,806	3,939	10,562	1,616	5,392	24	6	1,267
	2005-06	22,061	3,539	10,496	1,734	5,127	14	14	1,137
	2006-07	24,465	4,185	11,978	2,124	4,967	15	6	1,190
	2007-08	20,554	4,090	9,610	1,862	4,301	2	3	686
	2008-09	22,771	4,023	10,664	2,103	5,133	2	24	822
	2009-10	23,376	4,751	10,942	1,827	5,072	1	10	773
Total	2004-05	195,865	65,525	11,049	1,926	100,122	835	842	15,566
	2005-06	206,927	66,157	11,091	1,804	109,850	715	1,130	16,180
	2006-07	211,497	71,224	12,551	2,188	108,473	586	1,209	15,266
	2007-08	177,484	62,573	10,338	2,205	91,204	217	631	10,316
	2008-09	186,466	60,889	11,790	2,240	99,444	293	729	11,081
	2009-10	189,772	61,238	11,800	1,897	101,970	195	751	11,921

Source: QPS Statistical Reviews 2004-05 to 2009-10.

**Table 4: Rate of non-Indigenous offenders (adults and youth) and type of police action taken, 2004-05 to 2009-10**

	Year	Rate per 100,000 population dealt with via:							
		Total	Arrest	Caution	Comm. Conf.	Notice to Appear	Summons	Warrant	Other
Adult (17+ years)	2004-05	5,951	2,118	17	11	3,258	28	29	492
	2005-06	6,199	2,100	20	2	3,511	24	37	504
	2006-07	6,116	2,192	19	2	3,385	19	39	460
	2007-08	4,993	1,861	23	11	2,765	7	20	306
	2008-09	5,064	1,759	35	4	2,918	9	22	317
	2009-10	5,008	1,700	26	2	2,916	6	22	336
Juvenile (10-16 years)	2004-05	6,222	1,075	2,882	441	1,471	7	2	346
	2005-06	5,885	944	2,800	463	1,368	4	4	303
	2006-07	6,416	1,097	3,141	557	1,303	4	2	312
	2007-08	5,325	1,060	2,490	482	1,114	1	1	178
	2008-09	5,834	1,031	2,732	539	1,315	1	6	211
	2009-10	5,947	1,209	2,784	465	1,290	-	3	197
Total	2004-05	5,982	2,001	337	59	3,058	26	26	475
	2005-06	6,164	1,971	330	54	3,272	21	34	482
	2006-07	6,149	2,071	365	64	3,154	17	35	444
	2007-08	5,029	1,773	293	62	2,584	6	18	292
	2008-09	5,147	1,681	325	62	2,745	8	20	306
	2009-10	5,107	1,648	318	51	2,744	5	20	321

Source: QPS Statistical Reviews 2004-05 to 2009-10; Office of Economic and Statistical Research (OESR), Synthetic Estimated Resident Populations by Indigenous status, age and sex for Queensland Statistical Local Areas, <http://www.oesr.qld.gov.au/subjects/demography/atsi-people/tables/synthetic-pop-est-indigenous-status/index.php>

As can be seen from Tables 3 and 4:

- There has been an overall 18% drop in the rate at which non-Indigenous people are arrested over the past six years.
- This drop in arrest rates has occurred within the context of a decrease in the total number and rate of non-Indigenous offenders; the rate of non-Indigenous offending has decreased about 15% over the same period.
- Unlike the pattern for Indigenous people seen above, there has been a slight decline in police dealing with non-Indigenous people by way of notice to appear in court; the rate at which non-Indigenous people are dealt with by way of notice to appear has decreased by 10% over the six year period.
- Otherwise, there has been relatively little change over time in the type of police action used to respond to non-Indigenous offenders.

Looking across Table 4, police treatment of youth and adult offenders has similarly decreased in rate, except in the area of arrest. For example, while the adult arrest rate has steadily decreased (20% over six years), the youth arrest rate has fluctuated markedly and, overall, increased by 12%.

Comparing Tables 1 and 2, with Tables 3 and 4:

- The number of Indigenous offenders arrested as a proportion of the total number of Indigenous offenders dealt with by police fluctuated between 44-49% over the six year period; in comparison, the proportion of non-Indigenous offenders arrested fluctuated between 32-35%.
- The Indigenous arrest rate (per 100,000 Indigenous population) has consistently been between 10 and 12 times higher than the arrest rate (per 100,000 non-Indigenous population) for non-Indigenous Queenslanders.

In sum, while there has been a reduction in the Indigenous arrest rates over the past six years, this has occurred in the context of a rise in the overall number of Indigenous offenders dealt with by police. The reduction in Indigenous arrest rates appears to be attributable to changes in police practices over time to deal with more Indigenous offenders by other means, in particular by increasingly commencing proceedings by way of notice to appear in court.<sup>16</sup>

## **2. Has there been an increase in the rate of Indigenous people being cautioned?**

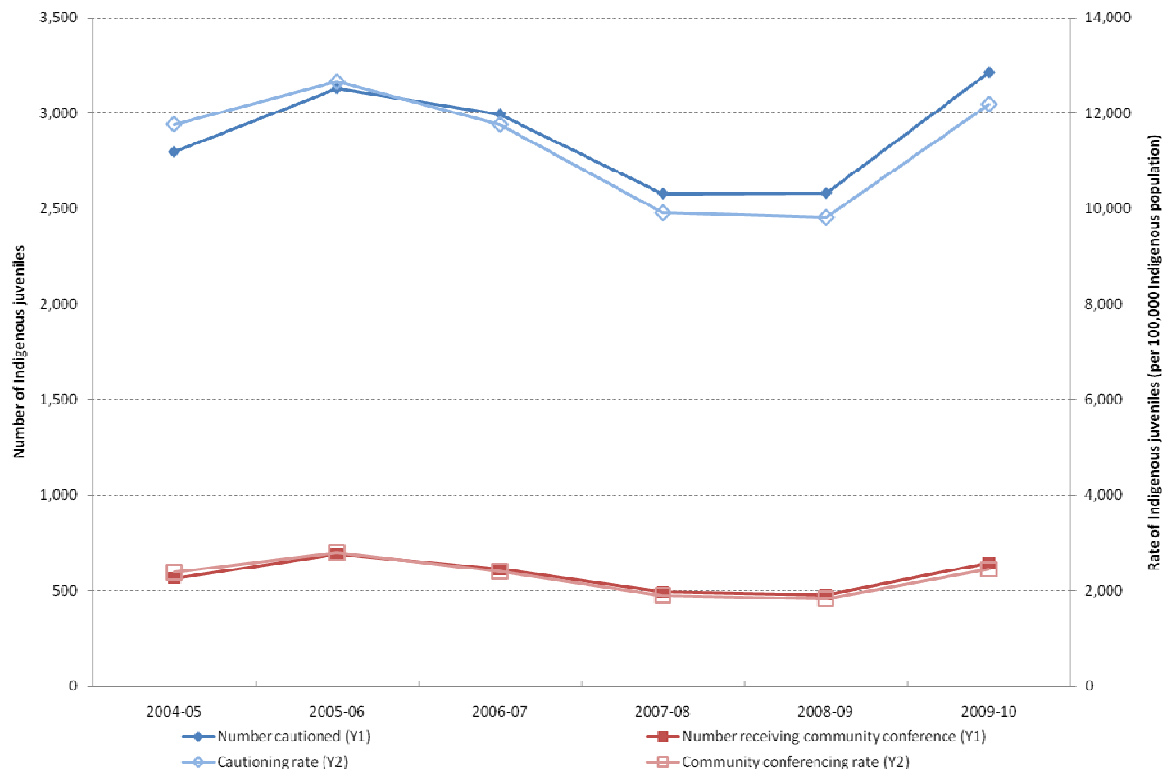
Formal cautioning and community conferencing are diversionary options primarily used in response to young offenders (10-16 years old). Queensland's law provides that police must consider these options before commencing proceedings for young people who are being dealt with for offences that are not serious (s. 11 *Youth Justice Act 1992*).

Figure 2 presents data from Tables 1 and 2 above regarding the number and rate of

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<sup>16</sup> It should be noted that on 1 January 2009, the Queensland Government introduced a trial of ticketing as a further alternative for police to deal with some public order offences in trial areas. From 8 November 2010 this alternative was made available to police statewide. This initiative should further reduce Indigenous arrest rates by providing another avenue by which police can respond to a substantial proportion of public order offending.

## Indigenous young people cautioned and conferenced.



**Figure 2: Number and rate of Indigenous young people (10-16 years) cautioned and conferenced, 2004-05 to 2009-10**

Source: QPS Statistical Reviews 2004-05 to 2009-10; Office of Economic and Statistical Research (OESR), Synthetic Estimated Resident Populations by Indigenous status, age and sex for Queensland Statistical Local Areas, <http://www.oesr.qld.gov.au/subjects/demography/atsi-people/tables/synthetic-pop-est-indigenous-status/index.php>

Note: The decrease in the number and rate of Indigenous offenders in 2007-08 is most likely due to the loss of some Indigenous status data in conjunction with the change to the new police QPRIME database. Since 2007-08 offenders with unknown Indigenous status have had an Indigenous status assigned using previous offender history (e.g. if an offender has ever identified as Indigenous in previous offences, then they will be categorised as Indigenous even if they have unknown/refused status at the time of the subsequent offending). The adoption of this practice is likely to contribute to an increase in the number and rate of reported Indigenous offenders in subsequent years.

As can be seen from Figure 2 (and Tables 1 and 2) the number and rate of Indigenous young people dealt with by way of police caution has experienced some fluctuation over the past six years, but overall the number has increased by 15% but the rate has decreased by 2%.

Figure 2 (and Tables 1 and 2) also shows the number and rate of Indigenous young people dealt with by way of community conference has fluctuated over the past six years. Overall, the number has increased by 14% and the rate has increased by 3%. These changes have occurred within a context of a general decline in the overall rate of offending by Indigenous young people (9%).

Looking across Table 4, there has been a general decline in offending by non-Indigenous young people over the six year period of 4%, while the rate at which police respond to these offenders with cautions has decreased by 3% and the rate at which they respond with community conferences increased by at least 5%.

Comparing Tables 1 and 2, with Tables 3 and 4:

- The number of Indigenous young people cautioned as a proportion of the total number of Indigenous young offenders dealt with by police, ranges between 23-27% over the six year period. In contrast, the proportion of young non-Indigenous offenders cautioned ranges from 46-49%.
- The rate at which Indigenous young people (per 100,000 Indigenous young persons) were dealt with by way of police caution or community conference has remained between 3 and 5 times higher than the rate at which non-Indigenous young people (per 100,000 non-Indigenous young persons) are cautioned or conferenced.

Recent Queensland research provides a more detailed picture of Indigenous and non-Indigenous cautioning patterns and the reasons that may explain the differences. This research has undertaken the complex and time consuming task of using police data to consider unique offenders, or individuals and their history of contact with the criminal justice system, including cautioning. This research demonstrates that:

- when considering if a youth had ever been cautioned 79.7% of all Indigenous offenders had ever received a caution; 86.5% of all non-Indigenous offenders had ever received a caution
- 75.9% of Indigenous youth were cautioned upon their first contact with the criminal justice system, compared with 84.8% of non-Indigenous youth
- the percentage of offenders cautioned for their second, third, and fourth contact were similar across Indigenous and non-Indigenous persons
- when considering all contacts Indigenous youth had with the criminal justice system, 35.2% of all Indigenous contacts resulted in caution while 60.0% of non-Indigenous contacts resulted in caution, this disparity occurs because of the different offending profiles between Indigenous and non-Indigenous offenders
- Indigenous and non-Indigenous young people were more likely to be cautioned or conferenced than appear in court if they were younger, had less serious offending, fewer prior contacts, and no previous caution, conference or court appearance (Little et al., in press; see also Allard et al. 2009, 2010).

Furthermore, in this research there is some evidence to suggest that police responses to youth offending typically follow a pattern of cautioning, conferencing, and court as the number of offences increases and nature of offending intensifies (Little et al., in press). Therefore, the above pattern observed in police responses to Indigenous and non-Indigenous, young offenders over the last six years may reflect changes in young people's offending. Alternatively, because generally speaking the rate at which young people offend has decreased over this period, the increased use of community conferences by police may instead reflect changing police attitudes towards the effectiveness and or appropriateness of this method of responding to youth offences. Further research is needed to explore this possibility.

In sum, existing research clearly shows that police in Queensland are commonly using cautions in relation to Indigenous juveniles. Reasons for differences in the rates of cautioning of Indigenous and non-Indigenous young people must be further explored as no clear pattern emerges from the research conducted to date. However, it is likely that a complex interrelationship of factors may account for the differences that exist. Such factors may include age, gender, offence type, offence seriousness and the local social context

within which police are responding (e.g., the nature and extent of offending to which police are exposed in a given community).

### 3. Has there been a decrease in the rate of Indigenous people coming before the courts?

Tables 5 and 6 present the number and rate of Indigenous and non-Indigenous adult defendants appearing in Queensland courts.

**Table 5: Number and rate of Indigenous adult defendants\*\***

Year	Number of defendants in Magistrates Court	Number of defendants in Higher Court	Total number of defendants	Rate of defendants (per 100,000 adult Indigenous population)
2004-05	17,471	715	18,186	23,626
2005-06	17,938	1,008	18,946	23,930
2006-07	18,851	1,024	19,875	24,340
2007-08	18,814	1,097	19,911	23,545
2008-09	21,990	980	22,970	26,185
2009-10	24,051	896	24,947	27,430

Source: Queensland Criminal Justice System Bulletins 2004-05 to 2006-07 and OESR unpublished data; Office of Economic and Statistical Research (OESR), Synthetic Estimated Resident Populations by Indigenous status, age and sex for Queensland Statistical Local Areas, <http://www.oesr.qld.gov.au/subjects/demography/atsi-people/tables/synthetic-pop-est-indigenous-status/index.php>

\*\*The increase in numbers from 2004-05, particularly in the Higher Courts, is partly due to improvement in data recording. In 2004-05, 17.4% of the Magistrates and 39.2% of the Higher Court data was missing a record of Indigenous status. By 2007-08 the situation had improved greatly with only 10.2% of the Magistrates and 5.8% of the Higher Court data missing Indigenous status. However, in 2009-10, 18.5% of the Magistrates and 11.5% of the Higher Court data was missing Indigenous status.

**Table 6: Number and rate of non-Indigenous adult defendants**

Year	Number of defendants in Magistrates Court	Number of defendants in Higher Court	Total number of defendants	Rate of defendants (per 100,000 adult non-Indigenous population)
2004-05	137,813	7,231	145,044	4,988
2005-06	150,071	6,859	156,930	5,262
2006-07	144,281	6,442	150,723	4,929
2007-08	152,772	6,757	159,529	5,075
2008-09	122,662	5,076	127,738	3,952
2009-10	120,533	4,299	124,832	3,757

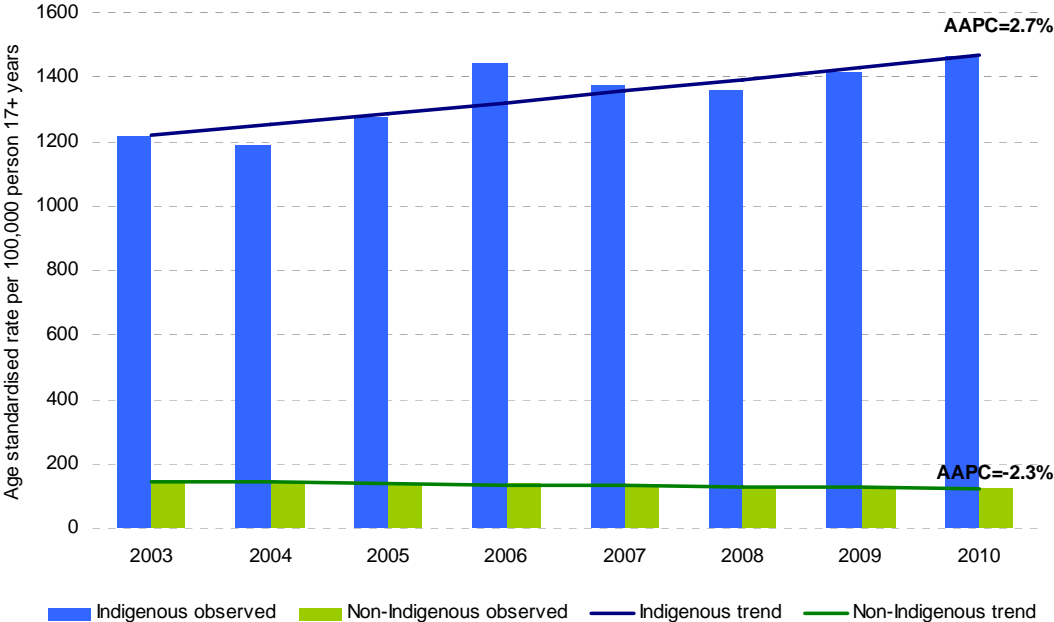
Source: Queensland Criminal Justice System Bulletins 2004-05 to 2006-07 and OESR unpublished data; Office of Economic and Statistical Research (OESR), Synthetic Estimated Resident Populations by Indigenous status, age and sex for Queensland Statistical Local Areas, <http://www.oesr.qld.gov.au/subjects/demography/atsi-people/tables/synthetic-pop-est-indigenous-status/index.php>

As can be seen in Table 5, the rate of Indigenous people coming before the courts has not markedly changed. The small increase in numbers is most likely due to missing data in the earlier years (see notes to the table). When compared with the rate of non-Indigenous persons coming before the courts in Table 6, the Indigenous rate has remained consistently high at between 5 and 7 times the non-Indigenous rate over the six year period.

**4. Has there been a reduction in the rate of Indigenous people receiving custodial sentences?**

Figure 3 presents the age standardised rate of adult imprisonment in Queensland.

Age-standardised data is used when comparing non-Indigenous and Indigenous populations because the Indigenous population is comparatively younger (median age 20.4 years) than the non-Indigenous population (median age 36.6 years). Previous research has shown that age is associated with offending behaviour. Therefore, in the absence of age-standardised data, it would be difficult to determine whether any differences observed between Indigenous and non-Indigenous offenders reflects a true difference or is associated with differences in their median age.



**Figure 3: Age standardised rate of imprisonment per 100,000 persons (17 years and over), 2003 to 2010**

Source: Department of Corrective Services, unpublished data; Office of Economic and Statistical Research (OESR), Synthetic Estimated Resident Populations by Indigenous status, age and sex for Queensland Statistical Local Areas, <http://www.oesr.qld.gov.au/subjects/demography/atsi-people/tables/synthetic-pop-est-indigenous-status/index.php>.

Note: AAPC is the ‘average annual percentage change’. Data included both sentenced and remand prisoners.

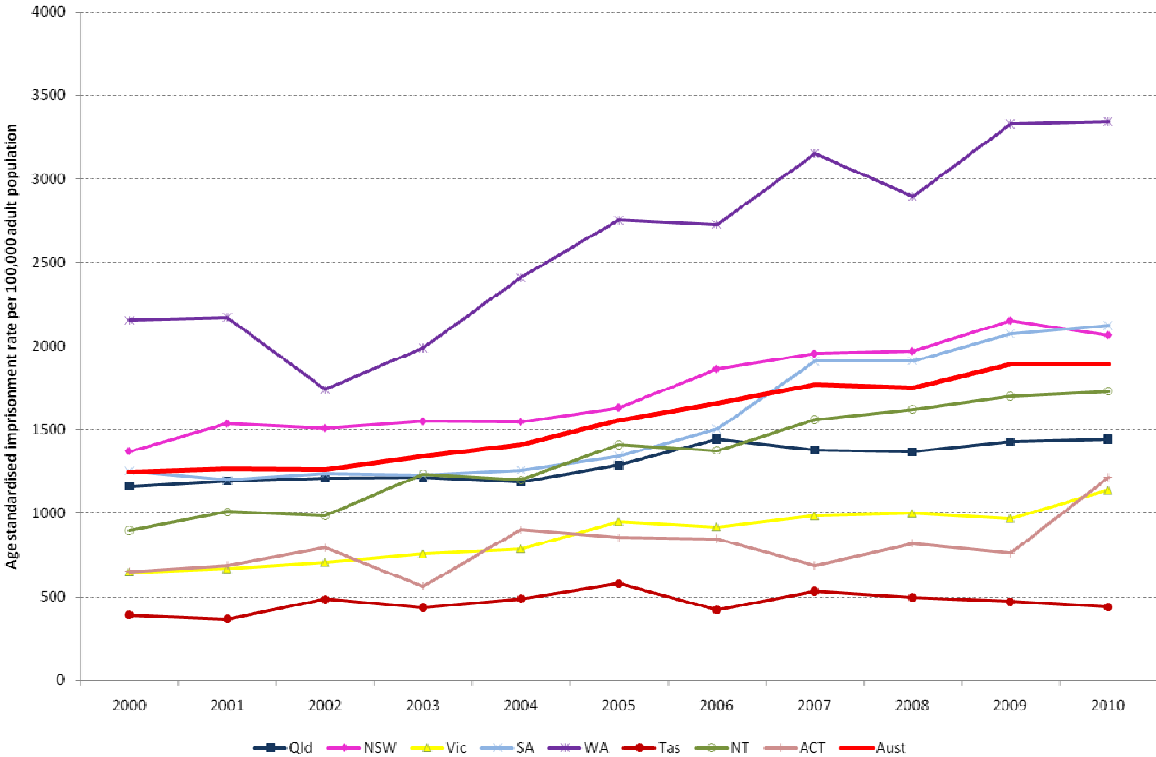
Figure 3 shows that the age standardised rate of Indigenous imprisonment has increased by an average of 2.7% each year since 2003. By comparison the non-Indigenous rate has decreased by an average of 2.3% each year since 2003.

Table 7 presents number, crude and age standardised imprisonment data published by the ABS for Indigenous people since 2000 for selected states. Figure 4 shows age standardised Indigenous imprisonment rates for all Australian jurisdictions.

**Table 7: Number of Indigenous Queensland prisoners, and crude and age standardised imprisonment rates (Queensland, New South Wales, Victoria and Australian average), 2000 to 2010**

Year	Number of Indigenous prisoners				Crude Indigenous Imprisonment Rate (per 100,000 adult Indigenous population)				Age Standardised Indigenous Imprisonment Rate (per 100,000 adult Indigenous population)			
	Qld	NSW	Vic	Aust	Qld	NSW	Vic	Aust	Qld	NSW	Vic	Aust
2000	1048	1248	138	4104	1524	1750	841	1664	1160	1370	647	1248
2001	1146	1339	150	4447	1618	1833	890	1777	1192	1535	667	1267
2002	1183	1503	160	4498	1623	1996	922	1728	1212	1507	705	1262
2003	1192	1563	174	4829	1615	2019	974	1808	1213	1549	755	1340
2004	1195	1576	186	5048	1553	1974	1013	1835	1189	1546	787	1411
2005	1331	1682	220	5656	1681	2057	1164	1999	1288	1631	949	1554
2006	1506	1951	215	6091	1845	2313	1144	2097	1444	1862	918	1657
2007	1454	2058	238	6630	1720	2389	1229	2216	1380	1955	984	1772
2008	1495	2139	245	6706	1704	2399	1221	2171	1367	1969	1000	1750
2009	1576	2374	241	7386	1733	2591	1159	2310	1427	2153	968	1891
2010	1656	2326	290	7584	1756	2459	1344	2303	1443	2064	1137	1892

Source: ABS 2000 to 2010, Prisoners in Australia, Cat. No. 4517.0. Data included both sentenced and remand prisoners.



**Figure 4: Age standardised Indigenous imprisonment rates for all Australian jurisdictions, 2000-2009**

Source: ABS 2010, Prisoners in Australia, Cat. No. 4517.0

As can be seen:

- Table 4 shows crude Indigenous imprisonment rates increased in Queensland by 15% since 2000, which was the lowest increase of all Australian jurisdictions. By way of comparison, NSW increased by 41%, Victoria by 60% and the national average increased by 38%. Since 2005, Queensland's crude Indigenous imprisonment rate has only increased by 4%, less than the national average increase of 15%. It should be noted that only one Australian jurisdiction decreased its crude Indigenous imprisonment rate (Tasmania by 14%).<sup>2</sup>
- Figure 4 shows age standardised Indigenous imprisonment rates increased in Queensland by 24% since 2000, which was the second lowest increase of all Australian jurisdictions (Tasmania had an increase of 12%). By way of comparison, NSW increased by 51%, Victoria by 76% and the national average increased by 52%. Since 2005, Queensland's age standardised Indigenous imprisonment rate has only increased by 12%, less than the national average increase of 22%. It should be noted that only one Australian jurisdiction decreased its age standardised Indigenous imprisonment rate (Tasmania by 24%).<sup>17</sup>

A similar trend has been found in New South Wales, where there was an increase in Indigenous imprisonment, but no increase in the number of offenders being brought to court. This trend was investigated by the Bureau of Crime Statistics and Research, who found that the increase in the number of Indigenous people in prison was due mainly to changes in the criminal justice system's response to offending, rather than to changes in offending patterns (Fitzgerald 2009). Specifically, Fitzgerald found that:

Approximately one quarter of the increase (in imprisonment) came from a growth in the remand population. Three quarters of the growth came from the sentenced prisoner population. The growth in the remand population is due to a combination of a higher rate of bail refusal and an increase in the time spent on remand. The growth in the sentenced prisoner population appears to be due, in the main, to an increase in the proportion of Indigenous offenders given a prison sentence and the length of the prison terms imposed (Fitzgerald 2009, p. 5).

Weatherburn (2010) argues that Indigenous social disadvantage accounts for the higher rates of serious offending among Indigenous Australians, and, consequently, a higher likelihood of bail refusal and imprisonment among those convicted. In particular, child neglect and abuse, drug and alcohol abuse, poor school performance/early school leaving, and unemployment are identified as evidence-based contributors to Indigenous involvement in offending, particularly violent offending, and over-representation in the criminal justice system. According to Weatherburn, efforts to address each of these underlying causes of criminal activity are required in addition to changes in the criminal justice system if the issue of Indigenous over-representation is to be properly managed.

Further research is required in Queensland in order to determine whether these reasons, or different reasons, explain the rise in Indigenous imprisonment rates here.

Recent Queensland research conducted by Sanderson, Mazerolle and Anderson-Bond (in press) considered courts data and corrections data and found that:

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<sup>17</sup> Caution should be used when comparing to ACT and Tasmania because of the small numbers of prisoners involved.



- Indigenous males and females are over-represented among populations on remand
- prior and current offending patterns and demographic characteristics of Indigenous defendants place Indigenous people at greater risk of remand; e.g. Indigenous males and females had more current violent offences, and current and prior charges for failures to appear, bail violations, violations of 'other' justice orders, and violations of domestic violence orders than non-Indigenous male and female defendants
- when differences in demographic and offence characteristics between Indigenous and non-Indigenous offenders are controlled for, neither Indigenous males nor females are remanded for longer periods than their non-Indigenous counterparts
- the length of time spent on remand in correctional institutions was related to the nature of an individual's offending
- Indigenous offenders were more likely than non-Indigenous offenders to have been remanded multiple times
- according to corrections data, the length of time remandees spend on remand appears to be decreasing from 2007-2009.

Further analyses of the imprisonment data was conducted to determine whether the rise in Indigenous rates illustrated in Figure 3 was an overall trend or whether it was more concentrated among the sentenced or remand sub-groups of prisoners.

From the data shown in Table 8, it appears that the number of Indigenous persons serving sentenced terms in prison in Queensland has increased by 39% (compared to an increase of 18% for non-Indigenous persons) since 2001 and the rate has increased by 5% (compared to a non-Indigenous decrease of 7%). The number of Indigenous persons on remand in Queensland has increased by 76% (compared to an increase of 15% for non-Indigenous persons) since 2001 and the rate has increased by 33% (compared to a non-Indigenous decrease of 11%).

While there have been increases in both sentenced and remand rates for Indigenous prisoners, it appears that the increase is far greater in the remand population. Put another way, while Indigenous remandees only comprise about 20% of incarcerated Indigenous persons, the increase in Indigenous remand rate comprised about 56% of the total increase in the Indigenous prisoner rate. For Indigenous adults, remand appears to be a substantial driver of the rate at which they are incarcerated.

**Table 8: Number and rate of Indigenous and non-Indigenous persons incarcerated**

Year	Indigenous prisoners				Non-Indigenous prisoners			
	Sentenced		Remand		Sentenced		Remand	
	Number	Rate (per 100,000 adult Indigenous population)	Number	Rate (per 100,000 adult Indigenous population)	Number	Rate (per 100,000 adult non- Indigenous population)	Number	Rate (per 100,000 adult non- Indigenous population)
2001	966	1,404	180	262	2,644	101	727	28
2002	970	1,370	213	301	2,785	104	753	28
2003	974	1,336	218	299	3,179	115	872	32
2004	940	1,254	255	340	3,139	111	906	32
2005	1,079	1,402	253	329	3,173	109	852	29
2006	1,203	1,519	303	383	3,126	105	930	31
2007	1,089	1,334	365	447	3,176	104	937	31
2008	1,135	1,342	360	426	3,173	101	876	28
2009	1,281	1,460	295	336	3,232	100	859	27
2010	1,339	1,472	317	349	3,120	94	839	25

Source: Queensland Corrective Services, unpublished data from the Annual Prisoner Census; Office of Economic and Statistical Research (OESR), Synthetic Estimated Resident Populations by Indigenous status, age and sex for Queensland Statistical Local Areas, <http://www.oesr.qld.gov.au/subjects/demography/atsi-people/tables/synthetic-pop-est-indigenous-status/index.php>

### 5. Has there been an increase in the rate of Indigenous people receiving community corrections orders?

Table 9 presents some experimental ABS data for Indigenous and non-Indigenous persons in community-based corrections.

**Table 9: Number and rate of Indigenous and non-Indigenous persons in community-based corrections**

Year	Number of Indigenous Persons in Community-based Corrections	Rate of Indigenous Persons in Community-based Corrections (per 100,000 adult Indigenous population)	Number of non-Indigenous Persons in Community-based Corrections	Rate of non-Indigenous Persons in Community-based Corrections (per 100,000 adult non-Indigenous population)
2007	2,267	2,776	10,317	337
2008	2,556	3,022	11,564	368
2009	2,823	3,218	11,785	365
2010	3,242	3,565	12,208	367

Source: ABS 2010, Corrective Services, Australia, Jun 2010 & Dec 2010, Cat. No. 4512.0; Office of Economic and Statistical Research (OESR), Synthetic Estimated Resident Populations by Indigenous status, age and sex for Queensland Statistical Local Areas, <http://www.oesr.qld.gov.au/subjects/demography/atsi-people/tables/synthetic-pop-est-indigenous-status/index.php>

Care should be taken when referring to this data. It should also be noted that Corrective Services legislation changed in 2006 and now allows a magistrate to specify a period of parole (which is considered one type of community based correction order) rather than a suspended imprisonment sentence (which is unsupervised and therefore not considered a community based correction order). Breaches of parole go before a parole board rather than returning to be heard before the court. These changes may have affected these data.

However, from the data shown in Table 9, the number of Indigenous persons in community-based corrections in Queensland appears to have increased by 43% (compared to an increase of 18% for non-Indigenous persons) since 2007 and the rate has increased by 28% (compared to a non-Indigenous increase of 9%).

## Attachment 2 Research about risk and protective factors

### Offenders

General criminological research (from Australia and overseas) provides a great deal of evidence in relation to the risk factors associated with offending behaviour, and to some extent regarding protective factors. In summary, this research shows:

- Being young and male can be described as key risk factors for crime.
- There is a strong relationship between alcohol consumption and risk of criminal violence. There is also known to be a high percentage of co-morbidity between substance abuse and mental health disorders.
- Individual factors such as low intelligence and educational attainment, personality and temperament, impulsivity and empathy have been shown to be important predictors of offending behaviour. Some research suggests high intelligence may be a protective factor.
- Family factors that have been shown to predict offending include criminal or anti-social parents, large family size, poor parental supervision, parental conflict and disrupted families. One of the best protective factors is good parental supervision.
- At the environmental level the strongest factors that predict offending are growing up in low socio-economic households, association with delinquent friends, attending high delinquency rate schools and living in deprived areas. One of the best protective factors is a high academic focus in schools.
- Those with multiple risk factors are more likely to become involved in offending than those with just one risk factor (Farrington & Welsh 2007).

In terms of risk factors, research also identifies some important differences between transient and persistent offenders:

Persistent offenders tend to have a lower IQ, more often come from family where parenting has been very poor, more often perform poorly in primary school, are more often rated as troublesome by their teachers, often have significant mental health problems, are more likely to have come from low income families and more often have a sibling who has been convicted of a criminal offence. Their involvement in crime is a reflection of a general pattern of anti-social conduct rather than just a response to some passing criminal opportunity. Transient offending, by contrast, generally appears as a result of association with delinquent peers in adolescence and does appear to be much more opportunistic in character (Weatherburn 2004, pp. 60-61).

It is known that complex processes and interrelationships, or causal pathways, underlie the statistical relationships between involvement in crime and specific risk and protective factors. For example, research suggests poverty and unemployment indirectly or cyclically influence the offending patterns of young Indigenous people because they exert a disruptive influence on parenting (Weatherburn & Lind 2006). This research also suggests that these influences are compounded when low income families are spatially concentrated.

Indigenous specific and Queensland specific research demonstrates that aspects of the picture painted above through general criminological research regarding risk and protective factors, holds true for Indigenous people and Indigenous offenders in Queensland.

- Indigenous status itself can be considered a predictive risk factor for crime in Queensland.
- A small handful of empirical studies that focus on identifying the variables predictive of Indigenous offending when the influence of other factors has been controlled for show that sex, alcohol use/abuse, education levels, age (i.e. under 25 years), labour force status and place of residence (city, rural or remote) all proved independently predictive of the likelihood of Indigenous peoples contact with the criminal justice system. Alcohol consistently emerges as the

first or second most strongly predictive factor (Weatherburn, Snowball & Hunter 2006, 2008; Wundersitz 2010).

- Research using Queensland data has shown a strong association between maltreatment<sup>18</sup> of Indigenous children and the likelihood of offending. Stewart, Dennison and Hurren (2005, p. 107) conclude that in Queensland 'male Indigenous children who are maltreated, in particular, are more likely than not to be on a trajectory to offending' (see also Lynch, Buckman & Krenske 2003; Stewart, Dennison & Waterson 2002).

Research also suggests there may be important difference in terms of risk factors for Indigenous people and the mainstream (Homel, Lincoln & Herd 1999). For example, the direct and indirect links between colonisation, Indigenous culture and Indigenous offending patterns may include:

- colonisation has led to disconnection from culture which in turn leads to feelings of loss, grief, hopelessness, high levels of stress and anxiety resulting in offending (Aboriginal and Torres Strait Islanders Women Task Force on Violence 1999; Cunneen 2007b, 2008; Langton 2008)
- loss of culture more specifically has been linked to loss of child rearing practices, community and family structures
- differing cultural values relating to violence and aspects of Aboriginal tradition may partly explain high levels of violent offending within Indigenous communities due to higher tolerances of violence as an appropriate means of resolving disputes (Langton 1988; Martin 2008; Sutton 2009)
- cultural factors contribute to public displays of drinking, swearing and violence in public spaces (Langton 1988).

Other risk factors that have been highlighted as being particularly salient for Indigenous offending include:

- Homelessness and poor housing (including overcrowding).
- Mental health and cognitive impairment issues (see e.g. Mazerolle & Sanderson 2008). A recent Senate Committee also noted that 26.6% of Indigenous adults experienced high to very high levels of psychological distress and consequently were twice as likely to experience high to very high levels of stress. Foetal Alcohol Spectrum Disorder (FASD) has been linked to high levels of offending (the Senate Committee). The prevalence of FASD in Queensland's Indigenous communities is largely unknown though it has been estimated that 1.5% of children living in Far North Queensland have FASD (Rothstein, Heazlewood & Fraser 2007).

Little work has been undertaken to identify protective factors that may apply specifically for Indigenous offending and violence. 'Cultural resilience' has been identified as one potential protective factor (see Homel, Lincoln & Herd 1999; see also Wundersitz 2010).

## **Victims**

The victims of Indigenous crime and violence are usually other Indigenous people (CMC 2009; Walker & McDonald 1995). The majority of victims of Indigenous crime are young Indigenous women who are in close relationships with the offenders. In three key Queensland reports - the *Aboriginal and Torres Strait Islander Women's Task Force on Violence Report* (1999), the *Cape York Justice Study* (Fitzgerald 2001), and the *Restoring Order* report (CMC 2009) – Indigenous women, in particular, have sent a clear message about their need for safer communities and getting the violence to stop.

While official Indigenous victimisation rates are high, they are likely to represent an underreporting. The reluctance of many victims, particularly of sexual assault offences, to report crimes to police is

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<sup>18</sup> This includes 'substantiated' and 'suspected' notifications to Queensland child protection authorities, but does not include 'unsubstantiated' notifications (see Stewart, Dennison & Hurren 2005, p. 9).

commonly reported. This reluctance is increased in the case of Aboriginal and Torres Strait Islander people where it is reported that a number of factors create this reluctance including historical factors and mistrust of governmental authorities (Aboriginal and Torres Strait Islanders Women Task Force on Violence 1999; AIC 2008).

Recent empirical research has also shown that many of the risk factors for Indigenous victimisation mirror the risk factors identified for Indigenous offending. For example, for Indigenous people high-risk alcohol consumption is the strongest correlate for violent victimisation, and for arrest, and that it remains so in the presence of controls for a range of other factors (Snowball & Weatherburn 2008).

The Australian Institute of Criminology (Bryant & Willis 2008) has conducted research regarding Indigenous risk factors for victimisation and identified the following:

- high-risk alcohol consumption
- being female
- social stress
- being a member of the stolen generation
- having been first charged with a crime as a young person
- financial stress
- residing in an area with neighbourhood problems
- substance abuse
- being a sole parent
- having a severe or profound disability
- living in a household with someone who has been charged with an offence
- unemployment.

The research acknowledged that the risk factors for Indigenous women are not dissimilar to those of non-Indigenous women, however, the impact of alcohol use patterns and historical-cultural impacts lead to effects beyond those experienced by non-Indigenous victims.

## Attachment 3 Research about what works to reduce offending

Research suggests:

- the strongest evidence of crime prevention effects comes from programs providing support to parents and children in the early years
- certain school-based and community based programs have also been shown to effectively reduce offending
- there is evidence showing that a range of programs provided through the criminal justice system, including institutional and post-release programs can be effective at reducing crime
- there is limited Indigenous and Queensland specific evidence showing what works to reduce offending.

### *Early years*

The strongest effects are generally demonstrated by prevention programs early in life. These include: certain kinds of daycare programs (but not all), ingenious methods of teaching parents how best to raise their children, home visitation programs run by professional nurses, and particular school programs that teach students how to achieve greater self-control (Wilson in Farrington & Welsh 2007, p. vi; see also Sherman et al. 1998).

The best known of such programs that are associated with strong evidence of crime prevention effects include the Perry Preschool Program, the David Olds Nurse Home Visitation program, and the Incredible Years program (Farrington & Welsh 2007; Webster-Stratton et al 2001).

For example, the Perry Preschool program for disadvantaged African-American children aged 3-4 years provided preschool lessons designed to teach things such as reasoning, self-discipline, how to set and achieve goals and how to play and work cooperatively with other children. Once a week, a teacher provided home visits to the parents of children in the program to provide advice on parenting and practical and emotional support. Depending on the child, the program lasted between three and five years. Program participants have now been followed-up to the age of 40 years and follow up studies show that for almost any measure - education, income, crime and family stability - the contrast between those who did the program and those who did not, is striking. Cost benefit analysis shows that Perry produced just over \$17 of benefit per dollar of cost (see Farrington & Welsh 2007).

### *Education*

There is strong evidence that improving educational participation and attainment in the education system also works to reduce crime. Numerous school based programs that seek to reduce truancy, poor academic performance, substance abuse or violence provide evidence that they can be effective at reducing crime.

For example, Professor Roland Fryer's evaluations of educational innovations through the Educational Innovation Laboratory at Harvard University ('EdLabs') provide such evidence. These include evaluations of:

- the Harlem Children's Zone which showed that schools alone can close the education gap; Fryer is now involved in a project to identify the key components of successful charter schools and to implement them in traditional public schools in the US
- four well designed financial incentives programs; the evaluation shows these to be a cost effective way of increasing school achievement (see <http://www.edlabs.harvard.edu/>).

Other programs that monitor and reward school attendance by students at risk of truancy have also been shown to be effective in preventing truancy and preventing juvenile involvement in crime. For example, one program involved participants meeting with program staff weekly and earning points for attendance that could be exchanged for a class trip of their choosing. An evaluation showed that, five years after the program ended, children in the experimental group were 66 per cent less likely to have a juvenile criminal record than their control group counterparts (cited in Weatherburn 2004, p. 187).

#### *Community and family-based programs*

Community and family-based programs that have strong evidence that they can be effective include multi-systemic therapy (Borduin et al. 1995; Henggler 1997; Schaeffer & Borduin 2005) and family functional therapy (Waldron & Turner 2008).

A small number of high-quality after-school sports and community-based mentoring programs have also been assessed according to the 'what works' framework as being promising (Farrington & Welsh 2007; see also Tolan et al. 2008). For example, high-quality mentoring programs have been identified as including:

- a high level of integration of mentoring with a range of services provided by an organisation and its partners (Joliffe & Farrington 2007; National Crime Prevention 2003)
- careful selection, training and supervision of mentors (National Crime Prevention 2003; Tarling, Davison & Clarke 2004)
- for young offenders, mentoring of greater intensity and complexity than may be provided to youth 'at-risk' (National Crime Prevention 2003)
- mentoring activities that are based on the needs of the young people, tailored to the target group (National Crime Prevention 2003)
- a frequency and longevity of a least once a week for six months (Joliffe & Farrington 2007; National Crime prevention 2003)
- for Indigenous programs:
  - strong links with Indigenous communities and services
  - a strong understanding of the historical, cultural and social factors which influence Indigenous people's lives
  - sensitivity to cultural requirements in matching Indigenous mentors and young people.

There is evidence that suggests that social marketing campaigns can be effective at changing social norms (see Synder & Hamilton 2002; Noar 2006; CMC 2009).

#### *Criminal justice system programs*

A range of policing methods, institutional and post-release programs can also be effective at reducing crime. Programs include multi-systemic, cognitive behavioural and aggression replacement therapy (ART) programs. The evidence suggests that the most effective secure corrections programs are those which serve only a small number of participants and provide individually tailored services (see Noetic 2010).

There is also evidence, for example, that providing drug treatment programs, therapeutic communities and post-release supervision (Holloway, Bennett, & Farrington 2006), referring mentally ill offenders to alternatives to the traditional court systems, perhaps in the form of specialised mental health courts (e.g. McNeil & Binder 2007; Sarteschi 2009) or drug courts can be effective in reducing crime. For example, drug courts have been found to achieve, on average, a statistically



significant 10.7% reduction in recidivism rates of participants relative to treatment as-usual comparison groups (Aos, Phipps, Barnoski, & Lieb 2006).

It has also been suggested that trialling and evaluating initiatives that strengthen informal social control options, for example youth justice conferencing and Murri Courts may not have any immediate effect on Indigenous reoffending but they may exert a positive capacity building effect over the longer term (see Weatherburn 2004; Cunneen 2007b; see Morgan & Louis, in press) .

Evidence from the United Kingdom evaluating a 'prolific offender program' (which targets persistent offenders on the basis that the risk of offending is much higher for repeat offenders and that this small proportion of offenders account for a large proportion of offending) also points to the effectiveness of combining supervision strategies (daily monitoring by police and weekly monitoring by a corrections officer) with the provision of considerable social support, including access to treatment, assistance in obtaining housing and employment, help in looking after children and life skills training. Re-offending rates among those on the program were found to be substantially lower than those in a comparison group (cited in Weatherburn 2004, p. 136).

There is mixed evidence regarding the effectiveness of employment programs at reducing offending. A recent systemic review of non-custodial employment programs concluded that employment-focused interventions for former prisoners have not been adequately evaluated for their effectiveness and calls for rigorous evaluation to assist policy development in this area (Visher, Winterfield & Coggeshall 2006). However, more recent studies (for example, see Schochet et al. 2006, 2008) have concluded that these programs can reduce the likelihood of re-offending. Furthermore, Weatherburn argues that 'these kinds of programs deserve serious consideration in Australia, especially in Aboriginal communities' (2004, p. 195).

The Australian Institute of Criminology (2004) has identified that to be successful, programs aimed at reducing crime in Indigenous communities must:

- Be culturally appropriate, that is, they must reflect the values and traditions of the communities in which they operate;
- Not be designed as one size fits all, that is, each community is different and has differing needs; and
- Allow for community involvement and have community ownership of programs, requiring consultation and community involvement in program development and operation.

#### *Indigenous specific or Queensland evidence*

There is little evaluative evidence demonstrating more specifically what works to reduce offending or re-offending for Indigenous offenders generally, or in Queensland in particular. This heightens the importance of evaluation to progressively build the evidence of what works to reduce Indigenous offending and over-representation. It also suggests that innovation is warranted in order to take into account what have been described above as the Indigenous specific aspects of risk and protective factors for offending and victimisation.

Indigenous specific research conducted by BOCSAR suggests the starting point for any policy aimed at preventing crime in Indigenous communities should be reducing alcohol, family violence and unemployment (see Weatherburn, Snowball & Hunter 2008). Reducing unemployment, Weatherburn argues, may be particularly vital for reducing Indigenous offending as it reduces economic stress and therefore improves parenting and reduces the risk of offending. He also suggests that to treat the causes of crime, young people must be given supportive homes, schools and communities.

There is evidence from Queensland that developmental programs and programs focusing on providing support and advice to parents effectively reduce the risk factors for offending for Indigenous participants. For example, such evidence exists for the Pathways to Prevention project and Indigenous Triple P (see Turner, Richards & Sanders 2007).

Recent Queensland evaluations of Queensland Indigenous Alcohol Diversion Program (QIADP) suggest that QIADP is having a modest but measurable impact on the offending behaviour of participants (Success Works 2010; QPS, in press). However, the length of time this impact remains in effect after participants leave the program is still questionable. In order for the program to be cost effective, treatment numbers must be increased so that the program runs at the capacity originally intended.

The recent independent evaluation of Queensland's Murri Court suggests that this initiative may have only a limited effect on reducing re-offending in its current form (Morgan & Louis, in press). Indigenous participation rates in drug court in Queensland are known to be relatively low (Payne 2008).

A social marketing campaign tackling Indigenous family and domestic violence in Normanton through the Normanton Stingers Rugby League Football Club, adopted the slogan 'Domestic Violence – It's not our Game'. The slogan was prompted through stickers, television advertisements, banners at games and players jerseys. Players accepted that the penalty for violence was exclusion from games and ultimately from the team. The project saw a 55% decrease in the prevalence of domestic and family violence in Normanton (AIC 2008).

#### *'Justice reinvestment'*

The justice reinvestment policy framework originated in the United States in the late 2000s as an alternative approach to reducing incarceration. England and Scotland have very recently adopted the framework (Allen & Stern 2007).

Justice reinvestment is an economic and social policy framework which moves government funding from prisons to early intervention and prevention and rehabilitation services. Justice reinvestment is based on the evidence that in the long-term, it is more economical to invest in programs and services that reduce incarceration. The framework involves a four step methodology which seeks to gather evidence.

1. Analysis and mapping to identify high needs communities based on evidence. This first step in the methodology involves identifying where offenders come from, and then calculating the funds spent on imprisonment for that location. It also involves considering the costs of policing, judicial systems, community based sentencing orders, post release orders and diversion.
2. Development of options to generate savings and improve local communities. This step involves analysis of the imprisonment and return to custody data. The analysis will identify reasons for offenders being incarcerated, for example, technical reasons such as minor breaches of parole or bail matters which could be addressed through alternatives to imprisonment.
3. Quantify savings and invest in high needs communities. This step involves community engagement and consultation around the causes of and solutions to crime.
4. Measure and evaluate impact. Evaluations and evidence based decision making is central to the justice reinvestment policy framework. Evaluations often consider the amount of money saved on imprisonment, reduction in imprisonment, reduction in recidivism, and indicators of community well-being and capacity.

In the US there are currently 14 states pursuing justice reinvestment including Texas (see <http://www.justicereinvestment.org/states>) . Texas adopted the reinvestment model approximately two years ago. At the time of introducing the model, imprisonment was increasing significantly and consistently over time. Texas has mapped and analysed its imprisonment data. The mapping process identified five counties where the cost of imprisonment totalled over half a billion dollars. In 2007, Texas legislated to fund additional programs and services including substance abuse residential programs, half way houses and in-prison treatment units. Texas reinvested \$241 million that otherwise would have been spent on building prisons. It is reported that \$210.5 million was saved in the 2008-09 year (Council of State Governments Justice Centre 2007) . Statistics released two years later indicated that growth in imprisonment had stopped when compared with the trends of previous years (Council of State Governments Justice Centre 2009).

Queensland has not in the past adopted a 'justice reinvestment' approach to reallocate funding in particular geographical areas from incarceration to effective prevention and community-oriented initiatives. Such an approach has also been recommended here as worthy of consideration in confronting the criminal justice problems faced by Indigenous people (Calma 2006; ANTaR 2010).

Regardless of whether a justice reinvestment framework is adopted in Queensland or not, any strategy that seeks to reduce Indigenous offending, victimisation and over-representation, must ensure that appropriate levels of investment are made in early-intervention, post-release and other preventative community programs.

In terms of any future strategy, it is recognised that patterns of offending need to be analysed, and particular place based initiatives identified, in terms of responding to the needs of specific communities. To the maximum extent possible, new justice system initiatives must take account of local circumstances and the pertinent evidence base.

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