

Cultural Expectations and Clashes
A Study of
Aboriginal and Police Relations in Rockhampton

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Declaration

I hereby declare that the work presented in this dissertation is, to the best of my knowledge and belief, original, except as acknowledged in the text. The material has not been submitted, either in whole or part, for a degree at Central Queensland University or any other University.

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SYNOPSIS

This research investigates the hypothesis that police attitudes contribute to the overrepresentation of Aboriginal men in custody. Three other issues are also examined throughout the course of this research, these being Aboriginal and police relations in Rockhampton; the right for Aboriginal people to have a voice throughout the research process; and the use of power by police as a tool of social control in their dealings with Aboriginal people.

The research comes from a personal experiences methodology, which gives Aboriginal people a voice throughout the entirety of the research process. Quantitative data in the form of incarceration rates and types of offences that Aboriginal men are likely to be arrested for in Queensland is used to support current literature and the stories shared with me by Aboriginal men and women about their personal experiences and observations of police in Rockhampton.

The findings of this research reveal that not only is power, violence and racist language used by some police in Rockhampton as a tool to produce an environment of social control in their treatment of Aboriginal people, it forms the underlying basis for the existence of a police culture based on institutionalised racism. The conclusion of this research is that a racist police culture exists in Rockhampton, which has contributed to the overrepresentation of Aboriginal men in custody.

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Power should be confined to people

Who are not in love with it:

Plato.

INTRODUCTION

The Topic of Research

As Plato's statement suggests power administered by people who love it can produce power inequities that can subjugate certain sections of society. This research investigated the use of power, as it currently operates between Queensland Police and Aboriginal people and the effect this use of power has on Aboriginal and police relations. Police are the agents of social control within Queensland society and are the first point of contact for entry into the justice system. Queensland Police Officers have the power to decide who is arrested and charged with an offence. The question this research sought to address concerned the use of police powers and the affect police attitudes have on the incarceration rates of Aboriginal men in Queensland.

There has been limited research conducted in Queensland investigating Aboriginal and police relations from an Aboriginal perspective. This research sought to create a new knowledge base that can contribute to understanding the use of power by agents of social control, which may contribute to the reported overrepresentation of Aboriginal people in the justice system. This research is of particular interest to Aboriginal people, who it will be argued, are discriminatorily targeted by police, because of police attitudes and the high visibility of Aboriginal people in public places.

Historical Overview of Aboriginal and Police Relations

In post-invasion Australia, and in particular, Queensland, Aboriginal peoples were in general, suspicious and in many instances fearful of the police. The *Industrial and Reformatory Schools Act 1865* allowed Aboriginal children to be taken from their families and relocated in reformatories and industrial schools on the grounds of 'neglect'. "Simply being Aboriginal was proof of neglect and for the purpose of the *1865 Act* missions were declared to be industrial schools or reformatories to which Aboriginal children could be sent" (Kidd, 1994 p. 83). From the mid 1800s onwards in Queensland, police along with magistrates were the agents of social control and were responsible for executing removal orders that enforced the separation of Aboriginal families and the relocation of Aboriginal communities. Police and Aboriginal perceptions of each other were reinforced through negative interactions; they only met when there was conflict, fear and tension (Eckermann, Dowd, Martin, Nixon, Gray & Chong, 1995 p.p. 24-114).

The Queensland Government, along with pastoralists and missionaries, continued to remove Aboriginal peoples from their countries throughout this time. The police empowered under the *Industrial and Reformatory Schools Act 1865* and the *Aboriginal Protection and Restriction of the Sale of Opium Act 1897*, removed children of Aboriginal mothers and non-Aboriginal fathers. Those children who were taken in North Queensland by the police were sent to Palm Island or Mapoon. Palm Island was designated as a receiving area for Aboriginal people who had been taken from their country by the police, including survivors from the Kalkadoon people (Wilson, 1985 p. 38). Social control

through dispossession was Queensland government policy from the mid 1800's onwards and the police were the agents responsible for the enforcement of government policy.

The government's policy of dispossession had severe impacts on Aboriginal life, language and culture. Prior to the European invasion of the landmass now known as Australia, there were approximately 300,000 Aboriginal people living in over 500 clans in Australia. Each clan had their individual country, language, history and culture (Broome, 1994 p. 11). Since the establishment of the first Aboriginal mission in Queensland known as Bogimbah Mission on Fraser Island in 1873, reserves and missions were used as herding places for Aboriginal peoples from many different clans who had been dispossessed from their country (Olbrei, 1982 p.113).

Many of Queensland's Aboriginal reserves and missions are now home to several clans. The Queensland government over a period of more than 100 years still does not understand that descendants of different clans have cultural differences, "which has led to, and still does often lead to personal conflict" (Olbrei, 1982 p.113). Palm Island, which was established in 1918 has been and still is home to many Aboriginal peoples of different cultures. Some time ago Palm Island, "...was virtually a penal settlement and any 'black' could be sent there if they had even dented the 'white' man's code or his law" (Olbrei, 1982 p.114). Aboriginal peoples on Palm Island in many instances "...were subject to almost unknown practices when punishment was dealt out by 'white' managers" (Olbrei, 1982 p.114). For many years 'white' managers and police empowered under the *Aboriginal Protection and Restriction of the Sale of Opium Act*

1897, used a 'divide and conquer' method to run the reserves and missions. This form of social control through power inequalities was further exemplified through wage payment control (Reynolds, 1989 p.p. 196-199).

The introduction of the *Aboriginal Protection and Restriction of the Sale of Opium Act 1897* was, in theory, designed to protect Aboriginal people from unscrupulous people. Police were empowered under the *1897 Act* as 'protectors', "...to inspect, monitor and record every facet of the lives of local Aboriginal families" (Kidd, 5-4-2001 p. 1). Social control was at the heart of the *1897 Act*, which dictated where Aboriginal people worked, lived, married and the right to be paid for their labour. At the stroke of a 'protectors' pen Aboriginal people could be made wards of the State and "...contracted out on 12 month 'work agreements' on pitiful wages" (Kidd, 5-4-2001 p. 2). All wages were paid to the police 'protectors' and Aboriginal people received only a small allowance, usually in the form of tokens redeemable at the local store; that is if they received any payment at all (Kidd, 5-4-2001 p.p. 2-3). Wage control highlighted the power inequalities between Aboriginal people, the Queensland government and police.

This situation intensified throughout the 1930's with the subjugation and control of Aboriginal people through *Acts* aimed to reinforce the theory that Aboriginal people were lower in standing than the dominant 'white' culture. The government ideology under the policy of 'training' in isolation and segregation was seen as the only process that could achieve equity of opportunity and admittance to citizenship for Aboriginal people. The police forcibly removed, in many instances, independent and self-supporting Aboriginal

people to reserves where no opportunity for individual self-support was possible. The result of this policy was the loss of rights to unemployment benefits and rations on reserves since the *Act* did not cover resources as such (Eckermann, Dowd, Martin, Nixon, Gray & Chong, 1995 p. 37).

From 1957 to 1963 the Queensland Government carried out negotiations with Comalco who wanted to mine bauxite on Aboriginal land on the west coast of Cape York. The Queensland Government legislated in favor of Comalco giving them the right to choose and maintain 1000 square miles of Aboriginal land for a minimum of 105 years. “This lease also provided the company with all timber, cattle grazing, water and farming rights” (Wilson, 1985 p. 39). As a result the Mapoon Aboriginal reserve, which was inside the mining lease, was forcibly closed. Again Aboriginal people were disadvantaged through dispossession. On the 15th November 1963 armed police were sent to Mapoon where they went from house to house demanding that Aboriginal people pack up and move to the Church owned mission cottages where they ‘slept’ under guard until they were removed to other Aboriginal missions including Weipa. Some Aboriginal people stayed to fight for their country, they were met with “Armed Police, forced transportation and arson as the weapons used to solve the problems of Comalco, the Church and the Government” (Wilson, 1985 p.p. 38-40). Such situations affected the relationship between police and Aboriginal people and resulted in negative attitudes between the police and Aboriginal people, which in many instances continue in present times.

The Queensland Police Service

As of 1st July 2000 the Queensland Police Service (QPS) had a total of 7700 serving police officers, which included 279 recruits in training. The public service sector of the QPS employs 2139 staff that provided various support services to members of the QPS. The QPS retains another 768 personnel, including 108 Aboriginal and/or Torres Strait Islander police liaison officers and 15 Aboriginal and/or Torres Strait Islander police officers (Queensland Police Service, 1-11-01 p. 4). The QPS is divided into eight police regions, these being Central, Far North, North Coast, Northern, Metropolitan North, Metropolitan South, South Eastern and the Southern Region. These police Regions are further divided into police Districts, which, where possible, are aligned with the Local Government Authority boundaries for effective disaster management (Queensland Police Service, 1-11-01, Appendix A).

The structure and function of the QPS is clearly outlined under the *Police Services Administration Act 1990*, which gives direction to “the preservation of peace and good order in all areas of the State” (Queensland Police Service, 1-11-01 p. 5). Under section 4.8 of the *Police Services Administration Act 1990*, the Commissioner of Police “...is responsible for the efficient and proper administration, management and functioning of the QPS in accordance with law” (Queensland Police Service, 1-11-01 p. 5). Of particular interest to this research is the position of Director, Office of the Commissioner who has many responsibilities including maintaining and promoting an effective operational association between police, Aboriginal and/or Torres Strait Islander and ethnic communities (Queensland Police Service, 1-11-01 p. 8).

Police are the agents of formal social control and their role in Queensland society is to protect life and property, prevent crime, investigate crime, apprehend law-breakers and prosecute 'criminals'. These duties are achieved through a philosophy of:

1. Preventing offences in preference to detecting the lawbreaker afterwards;
2. Preventing disorder in all communities through peaceful means rather than by sanctions or force;
3. Maintain communities favour through impartial service to the law, by offering friendship and courteous service to all and by individual dedication;
4. Exercise proper discretion in the enforcement of the law so avoiding harsh or unreasonable consequences in individual cases (Spooner & Sims, 1995 p. 1).

These four duty statements are very significant to this research. As written they do not discriminate against Aboriginal people. However, this research sought to investigate the proposition that police in many instances do not entirely comply with these duty statements particularly when police are in contact with Aboriginal people.

The following chapters present an overview of relevant literature, the theoretical and methodological concepts, which inform the research, the qualitative and quantitative underpinning of the actual research and the outcomes and recommendations, which grow from the research. Some discussion of the limitations of the approach and the research itself are also presented.

CHAPTER 1.

LITERATURE REVIEW:

Introduction

There are limited reports and documents relating to police and Aboriginal relations in post-invasion Queensland. Existing literature is mainly written from a non-Aboriginal perspective and to some degree lacks a cultural understanding of Aboriginal epistemologies and social systems. Non-Aboriginal researchers, academics and authors in many instances, are informed by their own cultural perspectives when interpreting relations between police and Aboriginal people. The last twenty or so years has seen Aboriginal researchers, academics, scholars and authors provided with the opportunity to examine Aboriginal and police relations from their perspective, in many instances, from lived personal experiences.

This chapter examines current literature from an Aboriginal perspective relating to Aboriginal and police relations and power inequalities in Queensland. The concept of power is analysed and an operational definition of the concept of power is provided. A brief overview of the *Police Powers and Responsibilities Act 2000* relevant to this research is given and a discussion of the relevant sections of the *2000 Act* is also offered. A full copy of the sections of the *Police Powers and Responsibilities Act 2000* relevant to this research is provided in appendices 1 and 2. Other significant legislation relating to this research including the *Racial Discrimination Act 1975* and the Commission of Inquiry (Deaths in Custody) *Act 1987-1991* are provided and discussed.

This chapter also discusses cultural differences, alcohol and the visibility of Aboriginal society. Examples are provided and explanations offered of cultural differences and the effects that alcohol has on police and Aboriginal relations. Col Dillon, who was the highest-ranking Aboriginal Police Officer in Queensland, who was stationed in Brisbane before his recent retirement, gives an insider's view of racism within the Queensland Police Service. As a background, this chapter briefly defines and gives examples of the related concepts of socialisation, acculturation, assimilation and social control.

Socialisation and Related Concepts

Socialisation can be characterised as the process by which people learn the social rules/norms defining relationships into, which they will enter (Tepperman & Richardson, 1986) or as the process by which people learn to become members of a given society (Berger & Berger, 1975). Concisely, socialisation teaches people the skills to live according to the accepted rules/norms of a particular society/cultural group. The socialisation process continues throughout life however, the most dramatic changes are in childhood. Primary adults, usually parents, are the principal teachers of the socialisation process in early childhood. By the time a child begins school he/she has already learnt the skills to "...cooperate with others, especially peers, to accept certain responsibilities, and to carry out assigned tasks at home" (Dalton, 1990 p.29). The normative and interactivist views of socialisation are further expanded in Chapter 2.

The rules/norms and roles learned through the socialisation process are compatible with the values learned in acculturation. "*Acculturation* is the process by, which members of a

society learn its culture and norms” (Tepperman & Richardson, 1986). Learning cultural values is mainly an unstructured and unconscious process. One example of this is that, “...young children are unaware that they are learning to speak the society’s language” (Dalton, 1990 p.29). Associated with socialisation and acculturation is the concept of assimilation, “...the process by which members of non-dominant cultural groups learn the values and behaviors of the dominant culture into which they have relocated” (Dalton, 1990 p.p. 29-30). In regards to Aboriginal peoples, Dalton’s definition perhaps should read, ‘...into which they have *in many instances been forcibly* relocated’. During the 1960’s and 1970’s the Queensland government put light skinned Aboriginal children up for adoption to non-Aboriginal families. Many of these children were subject to discrimination, vilification and enforced acculturation and assimilation (Bring Them Home-The Report, 25-12-01 p.7).

Related to the concepts of socialisation, acculturation and assimilation is the concept of social control, described as, “...all the means and processes whereby a group or a society secures its members’ conformity to its expectations” (Horton & Hunt, 1984 p.156). Social control may be formal or informal. Informal social control is evidenced in society through expectations that members will learn to behave according to the folkways and mores. Formal social control is evidenced in sanctioned legal behavior. An example of formal social control is apparent when police, who are empowered under State legislation, arrest someone for breaking the laws of the State, which can lead to sanctions, such as fines, bonds or imprisonment. Police as the agents of formal social control reinforce conformity to laws through sanctions, which, along with informal social control will be

discussed further in Chapter 2. Social control underpins the ideology of power in this research through legislation enforced by members of the Queensland Police Service, which in turn, it will be argued, produces power inequalities between police and Aboriginal peoples.

Power

Power is a very difficult concept to define as is evidenced through the many definitions that have been presented by sociologists. For example, Weber (1922) regarded “power as the fundamental concept of stratification, of which class, status and party were three separate (sometimes related) dimensions”. Gouldner (1970) noted “power is, among other things [the] ability to enforce one’s moral claims. The powerful can thus *conventionalize* their moral defaults”. Foucault (1994 p.p. 291-293) defines power as ‘a mode of actions upon other actions; it has no existence external to the acting subject’.

These three definitions of power can be applied in varying degrees when discussing power inequalities between police and Aboriginal people in Queensland. For the purpose of this research power is defined as ‘the process where the more powerful in a given society enforce their will on the not so powerful’ (Foucault, 1980 p.p.84-97). Therefore, power relationships are established through the process or processes, which institutionalise power, whether by legislation or socialisation and is then used as a tool of subjugation on any particular group or individual within a given society.

In Queensland power is legitimised by the State through legislation defining laws, which are applied to the citizens of Queensland by the justice system. In theory, through the legislative process the Queensland government establishes a 'system of right' and acceptable behavior for all its citizens. However, under the 'system of right' power inequalities can occur when one group has the authority of the law to subjugate other groups within a given society (Foucault, 1980 p. 96).

The system of right, the domain of the law, are permanent agents of these relations of domination, these polymorphous techniques of subjugation. Right should be viewed, I believe, not in terms of a legitimacy to be established, but in terms of the methods of subjugation that it instigates (Foucault, 1980 p. 96).

Police use of power under the 'system of right' can and does in some instances result in the misuse of power through the subjugation of Aboriginal people.

An example of power inequalities between police and Aboriginal people is the "Pinkenba Six" case, which involved the abduction of three young Aboriginal children by six Queensland Police Officers. In the early hours of May 10, 1994 three Aboriginal children aged 12, 13 and 14 were taken from the mall in Fortitude Valley, Brisbane and dumped fourteen kilometres away in remote bushland at Pinkenba on the north-eastern outskirts of Brisbane (Doneman & Callinan, 4-12-1996 p.3). These young Aboriginal children were threatened by the police who stated that "...they could cut their fingers off...". The police then stole their shoes and left these children to walk 14 kilometres home (Franklin, 3-04-1995 p. 5). This example of police abuse of power identifies the underlying issues of racism, where police without any legal repercussion can abduct Aboriginal children.

Power inequalities were further emphasised when in court Magistrate Robert Quinlan hearing the “Pinkenba Six” Case stated, “All three of them by their history and on testimony have no regard to members of the community, their property or even the justice system” (Breen, 25-02-1995 p. 1). Quinlan’s comments reinforce the power inequalities by blaming the Aboriginal children, ‘the victims’, for being abducted by the police, thus producing a ‘reality’ in which police have a right to abduct Aboriginal children; “Power in society includes the power to determine decisive socialisation processes and, therefore, the power to produce reality” (Berger & Luckmann, 1971). Supporting this claim is Foucault (1977, p. 194) who also states, “...power produces; it produces reality...”. The reality in the “Pinkenba Six” case is the acceptable behaviour of the more powerful in a given society, in this instance the police and Magistrate enforcing their power and ideologies on the not so powerful; young Aboriginal children.

Relevant Acts

In 1859, Queensland was declared a separate State, giving the newly formed Queensland Government the opportunity to introduce legislation to prevent the exploitation of Aboriginal people. Since 1859 many *Acts* have been passed, which have a direct impact on Aboriginal people. The following *Acts* both Federal and State are of particular interest to this research.

The Police Powers and Responsibilities Act 2000

The *Police Powers and Responsibilities Act 2000* (PPRA) officially took effect on July 1st 2000. Queensland was the first State in Australia to introduce an *Act* that consolidated all

police powers into one *Act*. Queensland society now has better access to their rights when dealing with police. The *2000 Act* gives police new powers including the new move-on laws (Police Powers First in Australia, 17-1-02 p.p.1, 2).

Part 4-Directions To Move-On

Under the *Police Powers and Responsibilities Act 2000*, (PPRA) Queensland police are given the powers to move people from areas designated as move on areas, which can include public parks where Aboriginal people gather to socialise. Under the PPRA if a person fails to comply they face the possibility of being charged with a criminal offence. The police must inform the person or group why they are being asked to move on. However, police cannot ask people to move on if it interferes with a person's right to peaceful assembly, unless the assembly interferes with "public safety, public order and the protection of the rights and freedoms of other people" (Queensland Police Service, 24-11-01 p 47). (See Appendix 1 for a complete outline of Part 4-Directions To Move-On).

A recent statewide survey of Queensland youth conducted by The Youth Advocacy Centre (YAC) demonstrated that police under the new PPRA 2000 were discriminating against young people particularly young Aboriginal and/or Torres Strait Islander people. The conclusions of the survey conducted with young people of all cultural backgrounds across Queensland are as follows:

- 10% were moved on from areas not covered by the *Police Powers and Responsibilities Act 2000*.
- 2 out of 3 young people were given a direction not covered by the *2000 Act*.
- 1 in 3 young people moved on are from an Aboriginal and/or Torres Strait Islander background (Spooner, 2000, p.8).

This survey clearly demonstrates that these powers under the PPRA 2000 are being used to discriminate against Aboriginal and/or Torres Strait Islander youth, which in turn puts a further strain on Aboriginal and police relations. `

Part 3-Safeguards Ensuring Rights Of And Fairness To Persons Questioned For Indictable Offences.

Under Part-3 of the *Police Powers and Responsibilities Act 2000* (PPRA), Division 3- Section 251 relates to ‘Special requirements for questioning particular persons’ of relevance here is, ‘Questioning of Aboriginal and Torres Strait Islander people’. Under section 251 a Queensland Police Officer who suspects the person who is going to be questioned is an adult Aboriginal or Torres Strait Islander person, the officer must arrange for legal representation before questioning begins. Police officers must not question Aboriginal or Torres Strait Islander adults without the presence of a support person. However, if an Aboriginal or Torres Strait Islander adult expressly and voluntarily waives his or her right to have a support person then section 251 does not apply. If a police officer reasonably suspects the Aboriginal or Torres Strait Islander adult, because of their educational level is not at a disadvantage in comparison with other members of the Australian community then section 251 does not apply (Queensland Police Service, 24-11-01 p.p. 159-160). This provides police with the power to decide who is not “educated” to the level described (See Appendix 2 for a complete outline of section 251).

Section 251 of the *Police Powers and Responsibilities Act 2000*, highlights the power inequalities that currently exist between Aboriginal people and Queensland Police Officers. The Queensland government, through legislation has given police the power to

define Aboriginality as well as education level before questioning can begin. Queensland has a long history of repressive legislation, which included policies relating to assimilation, training in isolation and removal of children. These policies along with mixed marriages and the brutalities of rape that have been inflicted on Aboriginal women by the invaders of Australia, have contributed to the many variances in skin colour and other exterior features of Aboriginal people (see Broome, 1994 and Reynolds, 1989). Given these variances in Aboriginal appearances it would seem impossible for police to accurately identify Aboriginality, much less having the ability to decide education levels.

Police are also empowered as described earlier, under the *2000 Act* to decide whether or not an Aboriginal and/or Torres Strait Islander adult has the educational skills to be interviewed. This situation of police defining the educational skills of Aboriginal people, further highlights the power inequalities that currently exist between police and Aboriginal people, especially when considering that many of the members of the Queensland Police Service have limited educational qualifications themselves (see La Macchia, 2000, Cunneen, 1997 and Cunneen & McDonald, 1997).

Racial Discrimination Act 1975-Federal Legislation

This *1975 Act* “confers rights to equality before the law, and binds the Commonwealth and States to the International Convention on the Elimination of All Forms of Racial Discrimination” (McCorquodale, 1987 cited in Horton, 1994 p.1294). The Human Rights and Equal Opportunity Commission is responsible for the administration of the *Racial Discrimination Act 1975*, and on receipt of a complaint officers of the Commission are

then required to undertake conciliation. If conciliation is not successful the complaint can then be referred for determination. Determinations can be made to the Federal Court and the United Nations Committee to Eliminate Racial Discrimination (Indigenous Law Bulletin, 13-01-02 p. 1).

Commission of Inquiry (Deaths in Custody) Act 1987-1991

The Royal Commission into Aboriginal Deaths in Custody

Whilst there is limited published literature relating to Aboriginal and police relations in Queensland there have been some significant reports. The Royal Commission into Aboriginal Deaths in Custody (RCADIC) dealt in part with police and Aboriginal relations in Queensland. 1987 saw the establishment of the Royal Commission into Aboriginal Deaths in Custody (RCADIC).

The terms of reference establishing Justice Muirhead's Commission directed him to inquire into the deaths in Australia since January 1980, of Aboriginal and Torres Strait Islanders...while in police custody, in prison or any other place of detention (Rutherford, 1988 p.199).

The Commissioners were responsible for providing recommendations based on their findings for Australian governments to implement in order to reverse existing trends of deaths and the overrepresentation of Aboriginal people in custody. There were 339 recommendations based on the findings of the RCADIC (Cunneen, 1997 p.p.2-7).

The RCADIC Recommendations 86-91 related specifically to police procedures and practices including the use of arrest as a last resort. These are significant recommendations in terms of this present research. Police are the first point of contact in the justice system and their attitudes towards Aboriginal people can have a bearing on

whether or not charges are laid. With the growing numbers of Aboriginal people in custody it seems highly likely that the Queensland government is not serious about implementing the RCADIC recommendations (see Offender Statistics Queensland Corrective Services Annual Reports, 1997, 1998, 1999 and 2000). Cunneen (1997 p.11) states, "...some of these recommendations currently have no more than government lip service paid to them".

The Queensland government, along with the Queensland Police Service, which is the agent of social control in Queensland, have apparently been unable to put into practice recommendations 86-91. Aboriginal inmates make up a much larger proportion of the prison population than their proportion in the State population. In 1997 "The imprisonment rate for 'Indigenous' persons was 1,585.4 per 100,000 adult 'Indigenous' population, compared with the non-'Indigenous' rate of 116.1 per 100,000" (Queensland Corrective Services, 1999 p.10). By comparing these imprisonment statistics, Aboriginal people in 1997 were 14 times more likely to be imprisoned in Queensland. As of June 1997 there were 892 male Aboriginal inmates in Queensland prisons, which equates to 25% of the total prison population (Queensland Corrective Services, 1999).

In comparison, in 1987 the year the RCADIC commenced there were 354 Aboriginal males and 1985 non-Aboriginal males imprisoned in Queensland (Biles, 1989 p. 10). The lack of commitment to the RCADIC recommendations by the Queensland government and police service is quite evident within these imprisonment rates for Aboriginal men, which has increased by approximately 7% from 1987 to 1997 whilst

non-Aboriginal incarceration rates have decreased by approximately 7% from 1987 to 1997 in Queensland on a per capita basis.

The ineffectiveness relating to the implementation of the RCADIC recommendations including reducing the high level of Aboriginal and/or Torres Strait Islander inmate population has been compounded by the persistence of the Queensland Police Service's strategies of law and order, as opposed to community policing (Cunneen, 1997 p. 11). Aboriginal and/or Torres Strait Islander people are still arrested and charged and in some instances incarcerated based on what police define as 'socially unacceptable' or 'deviant behavior' (Langton, 1988 p.p. 201-225). The Queensland Police Service has a cross-cultural awareness program as part of its induction for police cadets. However, the implementation of the cultural awareness program has failed to impact on incarceration rates, and in fact the number of Aboriginal and/or Torres Strait Islander incarceration rates continues to rise as previously shown in this chapter. The Queensland government and police service must implement recommendations 86-91 in order to address current trends relating to the overrepresentation of Aboriginal people in custody.

Structure of the Royal Commission into Aboriginal Deaths in Custody

There are a number of limitations within the structure of the RCADIC. The Federal government set the parameters of the Royal Commission. There were five commissioners appointed by the Federal government all were non-Aboriginal until mid 1989. In mid 1989 after the resignation of James Muirhead, Patrick Dodson became the only Aboriginal person appointed as a Commissioner. Mr. Dodson's role was to investigate

the underlying issues of the deaths of Aboriginal people in custody in Western Australia. This left all the other states and territories in Australia without any Aboriginal Commissioners. The only other Aboriginal input was limited to some consultative positions and this was ironic considering that self-determination was the underpinning principle in all the recommendations (Cunneen, 1997 p. 7). This situation defines the power relationship that exists between Aboriginal and non-Aboriginal people with the dominant culture in Australia setting the parameters of the methodology relating to the RCADIC process.

Non-Aboriginal people carried out the critical analysis of the findings, and non-Aboriginal people, except for Patrick Dodson wrote the 339 Recommendations. The personal experiences of Aboriginal and/or Torres Strait Islander people and their relationship with the police and prison services throughout Australia were certainly included within the data gathering stage and in some instances included within the final report in the form of case studies. However, the non-Aboriginal research methodology is flawed in that the group directly affected by the study was, except for Patrick Dodson in Western Australia, explicitly excluded from the analysis stage of the report.

Aboriginal and/or Torres Strait Islander people in many instances were not accorded the legitimacy to determine research and write their own understandings of the underlying issues of Aboriginal deaths in custody, including Aboriginal and police relations in all states and territories other than Western Australia. This situation in part may have contributed to the circumstances whereby some of the recommendations were poorly

drafted. As reported by Cunneen (1997 p. 11) "...it is quite clear that there has not been adequate attention given to the intent of the recommendations...". Clear and precise objectives and meanings for all the recommendations are needed if all Australian governments are sincere in addressing a socially unacceptable situation, the overrepresentation and deaths of Aboriginal people in custody.

A further limitation to the RCADIC was the use of social science methodology within the framework of legal inquiry, which shifts the research focus from individuals to groups (Black, 1989 p.p. 44-46). As stated by Whimp (1994 p.84) "A critical shift in the commission's focus in the underlying issues phase was the shift in the final report away from the actions of individual prison and police officers to the systems within which they functioned". Despite RCADIC finding ample evidence of police and prison officer incompetence, negligence and misuse of power there were no successful convictions. In addition, the Queensland Government produced the second highest number of challenges to the Commission's jurisdiction, which is hardly surprising considering the history of Aboriginal oppression and that a large number of deaths occurred in Queensland (Whimp, 1994 p.85).

Cultural Difference and Visibility

Langton's (1988 p.p. 201-225) research focuses on the incarceration rates for Australian Aborigines who appear to be the most incarcerated people in the world and cites cultural difference in law (lore) as a key explanation for high incarceration rates. Langton examined the contrasting perspectives of swearing and fighting in post-invasion

Australian society in both Aboriginal and non-Aboriginal cultures. According to Langton (1988 p.220), oral abuse was a successful form of punishment and fighting is a form of retribution in tribal lore (law). Langton (1988, p.224) claims that historians have neglected to include these vital elements of Aboriginal culture in publications referring to Aboriginal customs.

Langton gives a very brief description of Aboriginal culture in the pre-invasion sense and these views need to be expanded to give a clear and precise understanding of how this relates to Aboriginal and police relations. Within many Aboriginal cultures a public berating was often used as a way of shaming the offender for minor offences under customary lore (law). Ridiculing or abusing the offender usually satisfied the offended person. In some instances physical violence was also used to settle disputes under customary lore (law) (*Kameygal* oral history). A good example of this is if a person was insulted or injured by a member of another family, retaliation was then enforced through relatives of the injured or offended person or the person themselves. This system is generally referred to as the payback system. The payback system in many Aboriginal cultures was and still is a valid process of conflict resolution. This system of payback enforced social control contributing to the survival of, and harmony within, the family group and the wider clan.

Moreover, these 'traditional' methods of conflict resolutions are still the custom of some post-invasion Aboriginal cultures according to Langton (1988 p.p. 201-225). These customs or paybacks, now take place in hotels, parks and other public and non-public

places. Police regularly patrol these places and the risk of being arrested is extremely high. Police intervention can then result in escalating what police define as deviant or non-norm behaviour rather than controlling it (Roach Anleu, 1991 p.202). One example of the escalation of a custom or payback situation, is when police intervene to attempt to break up a dispute, the general reaction of Aboriginal people is to support each other against an historical common enemy, in this instance the police. This reaction can lead to a number of charges being laid by the police including, resisting arrest, assault police and public drunkenness, the latter charge, arguably, is usually laid whether the accused has been drinking or not. These three charges in many instances are referred to as the “trifecta” in many Aboriginal societies. The enforcement of ‘white-man’s’ laws can contribute to negative relations between Aboriginal people and police.

Langton (1998) presents an Aboriginal perspective and an explanation of the underlying issues of cultural norms. What Aboriginal people define as “cultural norms” can contribute to negative interactions between Aboriginal people and the police. Many but not all Aboriginal people spend some of their time in-group environments and in open country and this is regarded as a cultural norm. This love of the outdoors and country contributes to the high visibility of Aboriginal people who can and do meet in public places. For example, approximately ninety Aboriginal people live in Townsville’s Hanran Park many of them for over fifteen years. On 20th September 1995 in Hanran Park, Townsville, police arrested some fifteen to twenty ‘homeless’ Aboriginal people on charges of resist arrest, assault police and three Aboriginal people for public drunkenness (Cunneen & MacDonald, 1997 p. 56). The dominant culture in Queensland society has

not been able to adjust to this essentially public nature of Aboriginal life, nor the ways in which this renders much behaviour visible.

On the other hand, Langton neglects to identify the issue of alcohol and its affect on Aboriginal and police relations. In many instances police have to deal with Aboriginal people who are affected by alcohol, in situations that can become violent. In smaller country towns police are required to perform a number of roles that may include, gaoler, bailiff and court prosecutor and this can contribute to tensions in Aboriginal and police relations (Callan, 1986 p.51). As Noel Pearson (cited in Kocht, 2001, p. 27) states, “A very great proportion of the violence in our communities is associated with grog...the court convictions and clinic records show this clearly”. Undoubtedly the use of alcohol has a dramatic affect on Aboriginal and police relations, particularly when police are called in to intervene in potentially violent situations.

Public drunkenness, while decriminalised, is still an offence under Queensland law, which usually results in a fine. Many Aboriginal people cannot afford and/or are reluctant to pay these fines, which results in further needless incarceration. In Queensland the primary response to Aboriginal people drinking alcohol in a public place has been restrictive legislation enforced predominantly by the police. It would seem logical to suggest in Queensland society it appears it is more important to protect non-Aboriginal property, values and sensibilities as being the principal motivation behind the continuance and enforcement of restrictive laws. In addition, the implementation of replacement laws

including, park or street drinking are increasingly used as a justification for police incursion (<http://evolver.loud.or.au/place/history/Alcohol1.htm>)

An Insiders View of the Queensland Police Service

Col Dillon, the highest-ranking Aboriginal Police Officer in Queensland who recently retired from the police service states, “I just hope that with the introduction of the new move on laws that the young police on the streets are properly and adequately trained in utilizing those powers” (Dillon, 2000 p.3). Given the historical aspects of police and Aboriginal relations, concerns would have to be raised about racist attitudes that appear to prevail within the senior levels of the Queensland Police Service and what affect this has within the ranks of the police service.

The Queensland Police Service as a social institution has its own specific culture and ways of functioning through establishing what they define as normal or appropriate behavior. These practices, beliefs and value systems are socialised through senior officers at the executive level (Hollinsworth, 1998 p.54). According to Dillon (2000 p.3) “...racism is well entrenched within the upper levels of the Queensland Police Service”. This situation gives junior police officers and new recruits the impression that racist attitudes and practices are universal and acceptable behavior within the Queensland Police Service; “They come in and you’ve got that redneck, racist element in the service, and of course they get there and set themselves up as being the be-all and end-all of that particular ilk, of racists so to speak” (Dillon, 2000 p.3). Young police officers can start to

emulate the senior police officers actions and beliefs, which in turn further socialises the concept and acceptance of institutional racism within the service (Dillon, 2000 p.3).

Dillon gives a rare insight into the working life, culture and attitudes as he describes what is seen as acceptable behavior within the Queensland Police Service. The inside perspective of the Queensland Police Service is a view that is rarely exposed to the general public. Dillon (2000) expresses the view that overt racism is currently entrenched within the Queensland Police Service, particularly at the upper levels. Dillon's comments certainly contribute to the understanding of poor Aboriginal and police relations and the underlying issues surrounding the high incarceration rates of Aboriginal and/or Torres Strait Islander people in Queensland. Aboriginal and/or Torres Strait Islander people are already disadvantaged economically, politically and socially and are further marginalised when they come into contact with police officers that have adopted racist attitudes.

Conclusion:

Whilst there have been a number of reports addressing the overrepresentation of Aboriginal and/or Torres Strait Islander people in custody, and relations between police and Aboriginal people, they are mainly written from the perspective of the dominant culture in Australia. In many instances the authors, researchers and commentators are of non-Aboriginal and/or Torres Strait Islander descent. It is inevitable that cultural bias has an impact on any study. Cultural bias in itself is not a negative consequence; however when recommendations, solutions and explanations are grounded in dominant cultural ideologies, Aboriginal and/or Torres Strait Islander people remain invisible. Aboriginal

people must be accorded the legitimacy to determine, research and write their own understandings of the underlying issues in order to empower the voices that are otherwise defined as the 'other'.

The related concepts of socialisation, acculturation, assimilation and social control have been defined and examples have been offered in this Chapter. Socialisation and social control are operationally defined and further examined in Chapter 2. The concept of power has been examined and defined and an example of power inequalities that exist between Aboriginal people and police has been provided. An analysis of the *Police Powers and Responsibilities Act 2000* relevant to this research was presented.

Statistics in regard to Aboriginal incarceration rates clearly indicate that there is a problem. Aboriginal and/or Torres Strait Islander incarceration rates are increasing at a greater rate than non-Aboriginal and/or Torres Strait Islander rates. This in part can be attributed to what police define as the dominant culture's socially acceptable norms as opposed to what Aboriginal and/or Torres Strait Islander people define as norms. Police labeling Aboriginal and/or Torres Strait Islander cultural norms as 'deviant behaviour' contributes to arrest and incarceration. Dillon further supports this inside view of what police define as acceptable attitudes towards Aboriginal and/or Torres Strait Islander people. There appears to be a direct correlation between police attitudes, arrests through use of police powers and subsequent incarceration.

Existing reports and reviews are directed at Government and auxiliary departments. The omission of Aboriginal and/or Torres Strait Islander perspectives in much of the literature, as well as in the processes involved in research and documentation of reports such as the RCADIC, indicates the transmission of culturally biased and ideologically driven literature. The gaps in existing literature as well as the omission of Aboriginal and/or Torres Strait Islander perspectives highlights the need for personal experiences written by Aboriginal and/or Torres Strait Islander people in language that can be understood by them. Moreover, the language of government reports effectively excludes many Aboriginal and/or Torres Strait Islander people from accessing information. A level playing field where all parties have equal access to information written in a language that Aboriginal and/or Torres Strait Islander people can comprehend is essential for inclusive negotiation/consultation to occur and so facilitate change. Aboriginal and/or Torres Strait Islander people must be informed participants throughout the entire process.

This research presents Aboriginal personal experiences of relations with police. It is anticipated that this research will contribute to increased understandings of issues, and expand on existing knowledge, and provide one voice of many for Aboriginal and/or Torres Strait Islander people to get their messages across. This research provides a perspective from an Aboriginal man, his brothers and sisters (other Aboriginal men and women, not necessarily related) who have had personal experiences with members of the Queensland Police Service in Rockhampton. After 213 years of research and discussion produced by 'white' experts, who in many instances, gather their knowledge from

textbooks and hence view the issues from the outside, Aboriginal people are claiming the right to represent themselves and their views and experiences.

CHAPTER 2.

Contested Values: Dominant Value Positions As the Basis of Aboriginal Social Control

Introduction:

In Australia, the relationship between Aboriginal and non-Aboriginal people has been described as appalling. This situation is even accentuated when one considers the historical and contemporary relationships between Aboriginal peoples and the Queensland Police Service “who are perceived by Aborigines as the symbol of white authority, which perpetuates 200 years of bitter history” (Graham, 1989 p 1). This chapter defines four theoretical concepts used to analyse qualitative data gathered through the personal experiences of Aboriginal people who have come into contact with members of the Queensland Police Service in Rockhampton. Supplementary data in the form of newspaper and journal articles, which have in part been examined in the literature review and quantitative data, is analysed using these four concepts. Links are established between these four theoretical concepts, which in turn provide the basis of a critical theory framework. The critical theory framework allows for an Aboriginal perspective for examining a social phenomenon. The social phenomenon within this research is Aboriginal and police relations in Rockhampton.

In this chapter the theoretical basis of the concept “socialisation” is explained and examples are provided, which illustrate the socialisation processes within Aboriginal and non-Aboriginal societies in Australia. The concept of institutional socialisation within the Queensland Police Service is examined and clear examples of institutional socialisation

are outlined. This chapter then examines the concept of culture within Aboriginal and non-Aboriginal societies and investigates the existence of a police culture. Examples are given to illustrate cultural difference and how the dominant culture within Australia impacts on Aboriginal cultures.

Social control within Aboriginal and non-Aboriginal societies is discussed with examples provided to illustrate how social control is enforced within these culturally diverse societies. A brief examination of the impacts of the dominant cultures' enforcement of non-Aboriginal law and its consequences for Aboriginal peoples is explored. This chapter begins with a definition of the concept of institutional racism and explains why institutional racism is a central concept to this research.

Institutional Racism

Racism is the concept that asserts the superiority of one racially defined group of people over another. There have been a number of studies conducted regarding the concept of racism and findings suggest that some aspects of the ways government systems and procedures work continues to carry forward, by inertia rather than malevolence, some of the assumptions of racism (McConnochie, Hollinsworth & Pettman 1988 and Chambers & Pettman, 1986). One example of a racist assumption is that Aboriginal people are unable to care for themselves and need to be protected by governments until they 'measure-up' to non-Aboriginal 'civilisation' (cited in Eckermann, Dowd, Martin, Nixon, Gray & Chong, 1995 p.59). Such beliefs have informed government policy and illustrate

the way labels are given and that governments use these to justify their assumptions when they legislate to 'protect' Aboriginal people.

It is quite apparent that government 'protection' is not working as reflected in statistical data encompassing employment, education, health, housing and the over representation of Aboriginal people in custody (Callan, 1986, p.p. 40, 44, Australian Education Council, 1997, p.p. 65-75 and Cuneen & McDonald, 1997, p.p. 20-40). Frequently, these data are unimportant to the people who maintain the systems of government, because they are entrenched in the practices and procedures of decision-making and program implementation without, usually, input from those affected. This concept is referred to as institutionalised racism.

Institutional racism refers to the procedures, processes and complex structures of racial attitudes within institutions. This presents a way of describing the insidious structures and functions that are in place, which effectively maintain racial inequality (Hollinsworth, 1998 p.54). For the purpose of this research project,

Institutional racism refers to a pattern of distribution of social goods, including power, which regularly and systematically advantages some ethnic and racial groups and disadvantages others. It operates through key institutions: organized social arrangements through which social goods and services are distributed (Pettman, 1986 p.7).

Consequently, institutionalised racism is furtive and quite subtle, created within the process of necessary and respected forces within a given society, and, as a result is accepted behaviour. It originates through the laws, regulations and norms, which sustain dominance of one group over another. Institutionalised racism stems from society's

political and legal system and is legitimised by the powerful within a given society and in many instances is an accepted norm by the powerless (Eckermann, Dowd, Martin, Nixon, Gray, & Chong, 1995 p. 30).

The police service is a very powerful institution in Queensland society; its power is maintained through comprehensive knowledge of the laws contained within the legal system and its due process. Additionally, the Queensland Police Service has the authority of the State to detain, question and arrest citizens who in their opinion break the laws of the land. This situation can lead to an abuse of power resulting in the disempowerment of particular groups within Australian society. Given the historical aspects of Aboriginal and police relations, concerns would have been raised relating to racist attitudes that prevail from the senior levels of the Queensland Police Service, and the effect this has within the ranks of the Queensland Police Service (Dillon, 2000 p.3).

The concept of institutionalised racism is used to examine the underlying issues of the overrepresentation of Aboriginal people in custody. As the police are the first point of contact for Aboriginal people who enter the justice system it is imperative within this research that perceived racist attitudes that may prevail within the Queensland Police Service are discussed. Such racist attitudes would certainly impact on Aboriginal and police relations and could contribute to the overrepresentation of Aboriginal people in custody. In order to examine the existence of institutionalised racism within the Queensland Police Service, the concept of socialisation is used to examine the

internalisation of institutionalised racism as a norm within the value systems of the Queensland Police Service.

Socialisation/Institutional Socialisation:

As discussed earlier in this research, socialisation is the process through which we learn to become members of society, by internalising the norms and values of society. Socialisation also refers to the ways in which we learn to perform our various social roles, for example worker, friend and citizen (Marshall, 1994 p. 497). Through the process of socialisation, significant others and the environment influence the growing characteristics of the subject. Denisoff & Wahrman, (1975 and Baldrige, 1975 cited in Najman & Western, 1996 p. 17) label this socialisation approach as the *normative* view of socialisation.

The normative view of the socialisation process in non-Aboriginal Australian society is apparent in parents' influence on their children's socialisation into the norms of Australian society. The parents as the agents of socialisation in early childhood have a great influence on the child's learning of the language, culture, customs, knowledge, morals, beliefs and the habits of that particular society. Therefore, parents as existing members of a particular society are responsible for reproducing the beliefs of their society, which will enable the children to become active participants within the existing social order. To ensure that the social values and order are reproduced, the socialisation process includes positive and negative reinforcements in the form of rewards or sanctions,

thus reinforcing the underlying decision-making processes of 'right and wrong' within society.

As a child matures, significant others external to the family have an increasing influence on the individual's socialisation. Institutions within Western society including, but not limited to, the Church, schools, media, and government agencies, all contribute to a formalised approach to the socialisation of individuals. These institutions have rules and regulations which must be obeyed, and the sanctions imposed for non-compliance are often more serious than informal sanctions imposed within a family, for example, exclusion from school or police arrest (Najman & Western, 1996 p.p.17-18).

Alternatively, within Aboriginal societies the agents of socialisation in early childhood, adolescence and early adulthood are far more complex. Through the kinship system, the extended family plays a far greater role in the socialisation process than in non-Aboriginal societies. Furthermore, the extended family's socialisation influence continues to have effect on members throughout adulthood. The process of socialisation within Aboriginal societies is sometimes seen to be more interactive than that of non-Aboriginal society; that is, individuals, regardless of age, continue to learn from each other, as learning in Aboriginal societies is focused on participation. For example, as an adolescent my Grandfather took me away on many hunting and fishing trips where I was taught the protocols and ways of my family group and clan. Throughout this process encouragement was provided to contribute to this learning, thus my Grandfather could also learn from my perspectives of the knowledge he passed on. Douglas (1973 and Sites, 1975 cited in

Najman & Western, 1996 p.17) views this form of socialisation as *interactionist*; that is, the socialisation process affects all participants.

The normative socialisation approach is the usual process in the closed environment of government agencies such as the Queensland Police Service. Members of the Queensland Police Service must comply with the socialisation process in order to participate. This is referred to as institutionalised socialisation, an organized pattern of behavior, well established and accepted as a fundamental part of a culture (The Macquarie Dictionary, 1995 p.12). For the purpose of this research the concept of institutional socialisation is defined as,

The process whereby the values and norms of the profession are internalized into one's own behavior and concept of self; it is the process whereby knowledge, skills and attitudes characteristic of a profession are acquired (Watson, 1981, p. 19).

This definition of institutional socialisation provides the new police cadet opportunity to acquire attitudes that are accepted as normal behavior within the Queensland Police Service.

The process of institutional socialisation within the Queensland Police Service occurs at all levels of membership beginning at the time an individual joins the service. A cadet police officer undergoes extensive training at the Queensland Cadet Academy in Townsville or Brisbane under the guidance of trainers who are police officers themselves. After leaving the academy the new police officers are partnered with experienced police officers who, as existing members of the institution, teach or impart the customs, culture and accepted behaviours and roles of a Queensland Police Officer. Organised social and

sporting functions enable new recruits to establish links and new friends within the service. As observed by a Queensland Police Officer,

One of the more satisfying feelings of being in the police force is the camaraderie displayed between members during work and after hours at social gatherings. Although at times the police work may seem stressful, the support of fellow members both during and outside of work is second to none (Spooner & Sims, 1995 p. 13).

Such camaraderie and support both in and out of the work environment further reinforces the institutional socialisation process, which contributes to the establishment of a police culture.

Culture:

There are various definitions of the term “culture” for example Sargent (1996 p.76) defines culture as the "social meanings and transmitted knowledge, values, beliefs and customs in a given society”. The inadequacy of this definition however, is that there is an assumption that all members of, for instance “Australian society” share the same belief systems. There must be an explicit recognition of diversity within a “society” and this diversity is illustrated through the existence of cultural groups. Cultural group members share language, beliefs, norms, values and knowledge, and have the ability to influence other cultural groups and in turn be influenced or transformed (Sargent 1996, p.78). Within today's multicultural Australia the perception and influences of cultural meaning is varied, particularly between Aboriginal and non-Aboriginal cultures.

As has been stated earlier Aboriginal cultures are transmitted through an interactionist approach amongst extended family members. Knowledge, customs, beliefs, values and

meanings that go towards forming individuals' identities also establish the cultural capital enabling members to identify with their particular cultural group. In Aboriginal societies, culture and lifestyles are very diverse and are influenced in some instances by the ideologies of the dominant non-Aboriginal culture within Australia. The diversities within Aboriginal cultures are quite apparent especially in the changing environment in which Aboriginal peoples currently live.

Culture and customs in Aboriginal societies vary from 'traditional', 'semi-traditional' and 'non-traditional' depending on the location, or the environment (Edwards, 1990 p.112). This happens because of the varying degrees of contact with and influence of cultural groups foreign to Aboriginal cultures. Some Aboriginal societies still live on their 'traditional' and/or historical lands and retain 'traditional' knowledge and use many of their 'traditional' customs. In contrast, other Aboriginal societies live in urban settings as minority groups and in some instances may have little knowledge of their 'traditional' customs and knowledge. It has been suggested that the members of the latter group have lost their culture but this is not the case (Edwards, 1990 p.112).

Edwards' perception of present day Aboriginal societies fails to understand that culture is part of a lived experience and the concepts 'traditional' and 'contemporary' are condescending concepts relating to his own non-Aboriginal worldview. When Aboriginal peoples, perceived to be of the 'traditional', remain in present Australian society, the 'contemporary', degradation is thought to be inevitable. A consequence of the chronological divide between the 'traditional' and 'contemporary' age is a tendency to see

Aboriginal culture as true, pure and static or else not really of that culture, thus the contrast in Edwards between 'traditional' and 'contemporary' culture (Rutherford, 1988, 71). Aboriginal peoples' ability to exist in dominant societies and retain identity illustrates the dynamism, and adaptability of culture to continue to survive in a changing environment. Culture is not static, that is, with the introduction of new technologies and other changes, cultural groups negotiate new meanings through the context of their existing beliefs (Greider & Garkovich, 1994 p.7).

Attempts to define non-Aboriginal Australian culture are problematic in that Australia as a nation embodies a diverse range of cultures. Although historically Britain invaded Australia, the influence of other immigrants has led to a country of cultural diversity. Arguably the worldview that forms the basis of Australian culture is one based on capitalism, resource consumption, commodification, production, and 'progress' (Schnaiberg & Gould, 1994, p.69). This is illustrated through the stratification of society, consumerism, the degradation of the environment in a two hundred and thirteen year history, and the existence of power inequalities in Australian society.

Aboriginal cultures have survived the impacts of foreign cultures. Aboriginal peoples have embraced some aspects of these foreign cultures, whilst maintaining identity within a dominant environment. Non-Aboriginal Australian society maintains cultural dominance and power with little regard for Aboriginal peoples who are the original custodians of this country. This is demonstrated in every social and political level within Australian society. In comparing Aboriginal and non-Aboriginal cultures, the differences

between cultural systems in many instances can be substantial. Cunneen & McDonald (1997 p. 50) reports that, “Cultural difference expressed through body language can be falsely interpreted as implying guilt” when police interview an Aboriginal suspect. Making eye contact for extended periods of time is seen as disrespectful in many Aboriginal cultures, whilst in non-Aboriginal and police cultures breaking eye contact can be interpreted as a sign of guilt. While there is great diversity in Aboriginal cultures, the underlying cultural system as ‘one’ is continued through kinship connections, links to land, spirituality and sharing.

On the other hand, as has been stated earlier, non-Aboriginal Australian culture is arguably capitalist, acquisitive, exploitative, materialistic, competitive and stratified (Edwards, 1990 p.108). This is apparent when examining the culture that exists within the Queensland Police Service. Police culture is supported through a structural system, which enables members of the organisation to internalise sanctions and rewards. The Queensland Police Service has its own internal unit, which deals with police misconduct, corruption and criminal activity and an internal board enforces punitive action. Only if external statutory authorities, for example the Criminal Justice Commission (CJC) become aware of unacceptable behaviour, does the member face external punitive action sanctioned by the justice system. However, generally the disciplinary process within the Queensland Police Service is a closed environment; that is, the public rarely has access to this information, hence the internalising of the institutional socialising process occurs and the strengthening of cultural bonds between officers of the service is encouraged.

The examination of the accepted values, norms and beliefs that have been socialised within the Queensland Police Service and form the basis of a police culture, are paramount to investigating Aboriginal and police relations in Rockhampton. Police by the vary nature of their closed environment can be defined as a cultural group. Therefore, for the purpose of this research culture is defined as a cultural group whose "... members share language, beliefs, norms, values and knowledge, and have the ability and power to restrain other cultural groups" (Sargent 1996, p.78). The contrasts between Aboriginal, non-Aboriginal and police cultures have produced many inequalities including the issue of social control.

Social Control:

The term social control as discussed earlier refers to the social processes that regulate the behaviour of groups or individuals (Marshall, 1994 p.484). All societies, including Aboriginal societies, operate under some sort of law (lore) that is the result of either a democratic process, dictatorship or through a cultural process. Therefore, social control "applies to all the sanctions, responses or reactions orientated to the eradication or containment of deviant behaviour" (Black, 1976 p.2). Social control and conformity are achieved through the implementation of sanctions, a system of punishment for non-conformity or norm violations and reward for conformity to social expectations.

In Australia, formal social control and conformity are achieved through the development of laws that represent community values. The elected parliament has the responsibility to consult with communities, lobby groups and other pressure groups when developing

legislation. The process of developing and implementing laws in Australia allegedly involves recognising the rights of all Australian citizens. However, the parliament can and does define "...one group's rights as superior to another's..." (Keeley, 1991 p. 52). Parliament can authorise other representative bodies with the power to develop laws in response to specific needs. Examples of this are evident when parliament directs the Law Reform Commission to examine an issue or when parliament sets up a Royal Commission, for example, the Royal Commission into Aboriginal Deaths in Custody (Keeley, 1991 p. 52).

Aboriginal Elders are the heads of their clan and their authority is not to be challenged. The Elders are the decision makers they have the final say on what is appropriate behaviour and what is not appropriate behaviour according to the lore (law) of that particular Aboriginal society. Aboriginal lore (law) was defined in the creation time by the Great Ancestral Beings and was, and in some instances is still' taught to varying extents, to Aboriginal peoples through the socialisation processes in some Aboriginal societies. Aboriginal lores (laws) as set down by the Great Ancestral Beings set the patterns of behaviours for that particular social and cultural group in which their power was acknowledged (Berndt & Berndt, 1985 p. 337).

Aboriginal lore (law) is administered in various formats depending on the culture, history and location of a particular clan. While there were and still are no constituted courts within Aboriginal societies, there were and in some instances still are councils that administer lore (law), albeit in a far less formal and systematic way (Berndt & Berndt,

1985 p. 348). Within the *Jaraldi* and *Dangani* clans the Elders preside over a council (*tendi*) where lore (law) breakers are brought for judgment (Taplin, in Woods, 1879 p.p. 34-35). Howitt (1904 p.p. 295-354) discusses the *Wuradjeri* clan where an Elder has the authority to call a clan together to decide what action should be taken in regards to adultery, murders, abduction of women and numerous other infringements of *Wuradjeri* lore. Aboriginal lore, therefore, provides Aboriginal societies with a 'legal-system' through which formal social control supports a system of social order.

In Australian society agents of formal social control are responsible for the application of law. Agents of formal social control "...include the legal system, specifically the police, regulatory agencies and courts and tribunals, which administers such sanctions as fines, probation and imprisonment" (Roach Anleu, 1991 p.5). Consequently, in Australia, at least in theory, only the justice system has the authority to enforce formal social control. The legislated laws within Australia empower the justice system to enforce social control on Australian citizens, thus in theory ensuring social order. The perceived problem for many Aboriginal peoples is that the Australian system of law enforcement is based on the dominant culture within Australia, which excludes Aboriginal lore (law) as a valid process of social control.

Aboriginal people are currently advocating for the reintroduction of Aboriginal lore (law) into Queensland Aboriginal communities (Yanner, 2001 cited in Madigan, Franklin & Wenham, 2001 p. 6). There are a number of Aboriginal communities that practice customary lore (law) within Queensland. These communities include but are not limited

to Old Doomadgee, Bedungoo and Bentinck Island. These communities have been successful in banning alcohol, which has resulted in significantly reducing the levels of violence. Anyone who brings sly grog into these Aboriginal communities is punished under customary lore (law) as determined by the Elders and designated lore (law) men enforce punishments. According to Aboriginal activist and ATSIC Commissioner Murrandoo Yanner “Where we do use customary laws it works – but of course we risk being jailed under the criminal justice system” (Madigan, Franklin & Wenham, 2001 p. 6).

The current rhetoric in all tiers of Australian governments consistently advocate for self-determination for Aboriginal people. However, governments will not legislate to put into law the opportunity for Aboriginal people to determine and implement solutions to many of the issues that affect Aboriginal people. Currently in many instances Federal, State and Territory governments do not acknowledge cultural difference or Aboriginal lore, leading to the enforcement of the norms and laws of Australia’s dominant culture/society, which may clash with Aboriginal lores (laws) and cultures. The resulting situation positions Aboriginal people in a disempowered environment controlled by the dominant Australian culture.

Theoretical Framework:

Critical theory for the purpose of this research is defined as the process of discourse, power and knowledge relationships and the concepts that have produced them (Denzin, Lincoln, 1998 p.262). Values and subjectivity underpin research within this critical

approach. Values inform the research question, the methodology, the methods used and the theoretical approach undertaken. Moreover, rather than subjectivity being seen as a negative, the fact that the subjective values are made explicit gives this research validity. Critical theory gives this researcher a voice and the ability to discuss data from an Aboriginal perspective as previously discussed in the literature review.

The theoretical framework for this research is critical theory. Critical theory gives this Aboriginal researcher a voice relating to his and other Aboriginal men and women's life experiences and observations relating to the attitudes of members of the Queensland Police Service in Rockhampton. To examine these attitudes the concepts of institutionalised racism, socialisation/institutional socialisation, culture and social control have been provided to define a social phenomenon in this instance, Aboriginal and police relations in Rockhampton. Critical theory informs this research for a number of reasons. Critical theory is useful as it initially enables the researcher to identify a social phenomenon using a deconstructive approach, and then critique this social phenomenon. In understanding the social phenomenon I am able to then use critical theory concepts as a basis to understand and explain an oppressive social condition.

Critical theory recognises that society, and its institutions are constructed and in this constructed reality, power hierarchies exist and perpetuate inequalities. In this context knowledge is considered as dynamic and centred within structural/historical constraints. As society becomes more informed, knowledge is transformed. The purpose of critical theory is to understand socio-historical practices, and their effects on minority groups.

The knowledge and understanding gained through critical theory/approach assist in understanding social change and transformation (Denzin & Lincoln, 1998 p.p. 262-263).

Conclusion:

This chapter has examined institutional racism, which is a valuable concept that provide insight into any variables that are evident when examining statistical data relating to Aboriginal and non-Aboriginal people in custody. Qualitative data from an Aboriginal perspective, newspaper and journal articles and other sources are examined using the concept of institutionalised racism. Institutionalised racism stems from society's political and legal system, and is legitimised by the powerful within a given society, and in many instances is an accepted norm by the powerless. Therefore, the process of socialisation plays an integral part in forming the ideologies that underpin the possible acceptance of institutionalised racism within the Queensland Police Service.

The theories and processes of socialisation within Aboriginal, non-Aboriginal societies and the Queensland Police Service have been discussed. Socialisation is trans-generational in that it is transmitted from generation to generation. This chapter has examined the differences and the variances between Aboriginal and non-Aboriginal socialisation. Two theories were proposed, these being normative and interaction perspectives. The Normative theory of socialisation is conceptualised as a linear, hierarchical process where adults project their values onto children. This occurs within non-Aboriginal societies at all levels, including families, significant others and institutions. The interactionist theory of socialisation as stated earlier is more common

within Aboriginal societies and can be conceptualised as circular and participatory. All individuals interact and learn from each other, regardless of social position, age or gender. Institutional socialisation is a variance of normative theory in which values are internalised within a closed environment. This occurs through a hierarchical approach where existing members of the institution in this instance the Queensland Police Service, transmit the values of the service to new recruits who internalise these values.

Culture is never static, change continues as contact with other cultures occurs. Aboriginal cultures, while diverse, have common themes of sharing, links to land, kinship and spirituality. Non-Aboriginal cultures such as the Australian culture are arguably based in capitalism, consumerism, exploitation and stratification. Such a culture appoints formal social control agents such as police who develop their own culture. Police culture contributes to power inequities and cultural dominance resulting in inequality in the exercise of social control and what is defined as cultural difference, can contribute to negative relations between Aboriginal people and members of the Queensland Police Service.

Social control refers to the measures to address what is perceived as deviant behavior, both formally and informally. Formal social control is usually enacted through the process of the justice system and enforced by the agents of such social control, in this instance the Queensland Police Service. Informal social control happens on a daily basis through social interaction and therefore may be considered more insidious than formal social controls. However, because of the cultural specificity of formal social control

measures have impacts that are far greater for non-dominant cultural groups such as Aboriginal people.

The theoretical framework using critical theory is a valid research approach, which recognises that society and its institutions are constructed reality and within the constructed reality, power hierarchies exist and perpetuate inequalities. In understanding the social phenomenon in this instance, Aboriginal and police relations in Rockhampton, this research utilises critical theory as a basis to understand and explain a social phenomenon. While the value-systems of non-Aboriginal people continue to dominate and impact on Aboriginal people, the result for Aboriginal peoples is disempowerment.

CHAPTER 3.

Research Design.

Introduction

This chapter provides an insight into the methodology used to examine the proposition that Queensland Police Service member's attitudes contribute to the overrepresentation of Aboriginal men in custody. The dominant cultures' research models are used to map out the basic research methodology design for this research. However, Aboriginal epistemologies have been used where possible to supplement such paradigms. This process is the basis of what maybe envisaged as an Aboriginal methodological paradigm.

This chapter provides a definition of the terms used in this research. The term 'Indigenous' is not used in this research reasons for this are provided. An overview of the type of statistical data and other quantitative data and relationships to this research is offered. Clandinin & Connelly's (1995) research method of personal experience and explanations of the method and its relevance to this research are provided in this Chapter. The personal experience method is the closest research method identified as giving credence to Aboriginal epistemologies as the basis of social inquiry. A justification of the use of personal experience methods is offered.

This chapter gives a brief overview of the limitations for this researcher in gathering and collating the statistical data that informs this research. A definition of secondary analysis and how this is used in this paper is provided. This chapter then outlines the Aboriginal

protocols and ethical considerations that were strictly adhered to within the entirety of this research. This chapter provides a brief examination of how the hypothesis for this research was formulated and a definition of the term hypothesis and its use in this paper is offered.

Hypothesis

To reach a hypothesis for this research project it was necessary for this researcher to subjectively evaluate his and other Aboriginal men and women's life experiences and observations, in relationship to the justice system, and more precisely, the Queensland Police Service in Rockhampton. How this was achieved will be explained further within this chapter. The evaluation of these lived experiences examined through the theoretical concepts and a critical theory framework, which was described in Chapter 2, gives this researcher a clear and precise understanding of what this research sets out to examine.

In reaching the hypothesis for this research, theoretical concepts such as 'institutionalised racism', 'socialisation/institutional socialisation', 'culture' and 'social control' have been defined. These theoretical concepts facilitate the development of ideas and thus help define a workable framework or more commonly a hypothesis. "A hypothesis is a statement which asserts a relationship between concepts. A concept is an idea that stands for something, or represents a class of things" (Bouma & Atkinson, 1995 p. 37). The four concepts, 'institutional racism', 'socialisation/institutional socialisation', 'culture' and 'social control', inform the critical theoretical framework and help provide the proposition

that 'Police attitudes have contributed to the overrepresentation of Aboriginal men in custody', specifically in Rockhampton.

Operationally Defining Terms

Problems of reliability and validity of operational definitions arise in statistical indicators when concepts and terms are not clearly defined. Reliability refers to dependability and consistency while validity refers to whether the indicator captures the meaning or construct the researcher is interested in (Neuman, 1997 p. 138). The reliability and validity of existing government statistics, particularly in regard to Aboriginal identity, presents a number of issues including the question of who defines Aboriginal identity? Reliability and validity of Aboriginal identity indicators may be compromised at a number of points within the criminal justice process. On arrest, police define or assume a persons' identity while within Queensland Correctional Centres Aboriginal identity is defined through self-identification.

In Latin the word Aborigine is defined as: "from the beginning". "Used as a noun Aborigine identifies one of the original or first known inhabitants of a given place" (<http://www.aaa.com.au/hrh/aboriginal/hist4.shtml#Land>). For the purpose of this research the word "Aboriginal" is used to describe the original inhabitants of Australia. The term *Murri* is also used to describe Aboriginal people who originate from Queensland. The term *brother* is used to represent other Aboriginal males who are not necessarily related to the person using the term. Accordingly, the words "Torres Strait Islander" describe the original inhabitants of the Islands of the Torres Strait.

In addition, the term ‘Indigenous’ will not appear as defining Aboriginal or Torres Strait Islander people in any part of this research. The word ‘Indigenous’ is derived “from the Latin word *indigena* (a native) + *in* + *gen* root of *gignere* begret (be born) + English *ous*. In other words, anyone and everyone who is born in Australia, is an indigenous person” (<http://www.aaa.com.au/hrh/aboriginal/hist4.shtml#Land>). Older Aboriginal people including Elders in Rockhampton do not accept ‘Indigenous’ as an endearing term to describe Aboriginal people as was evidenced by a recent community meeting where an Aboriginal Elder objected to the use of the term ‘Indigenous’. Many Aboriginal community organisations in Rockhampton have replaced the term ‘Indigenous’ with Aboriginal and Torres Strait Islander. As an Aboriginal man I support and respect the wishes of these Aboriginal Elders and other older Aboriginal people I know in Rockhampton by not using the term ‘Indigenous’.

Quantitative Data Sources:

The quantitative data for this research has been gathered from a number of sources, including, the Queensland Corrective Services Statistical Division (QCSSD) located in the Queensland Corrective Services Central Office in Brisbane. The information within these reports includes statistical data in graphical form relating to the number of offenders, age groupings, gender and Aboriginality. Also included within these reports is statistical data relating to specific crimes including assault, street and good order offences relating to Aboriginal, Torres Strait Islander and non-Aboriginal and Torres Strait Islander people. This statistical data has been gathered from the Queensland Corrective

Services reports covering the financial years of 1997-1998, 1998-1999 and 1999-2000. Other quantitative data sources include the Australian Bureau of Statistics (ABS).

Quantitative data gathering methods have provided precise numerical data from which variables can be identified and relationships or trends examined. This quantitative approach is very useful when variables vary in magnitude, for example the size of the Aboriginal prison population as opposed to the non-Aboriginal prison population in Queensland (Muetzelfeldt cited in Perry, 1989 p.53, Labovitz & Hagedorn, 1976 p. 90). This enables any variables and trends relating to categories of crimes, age and total prison population size for Aboriginal and non-Aboriginal people incarcerated within the Queensland Prison System to be measured statistically. As police are the first point of contact in the justice system and their attitudes towards Aboriginal people can have a bearing on whether or not charges are laid, incarceration rates provide the only available statistical data that gives an insight into police attitudes towards Aboriginal people. This data is then compared to assist in gathering qualitative data. Such insight informs the investigation herein and underpins the qualitative nature of the study.

Qualitative Method

Studies within the field of social sciences are concerned with the relationship between humans, themselves and their environments (Denzin & Lincoln, 1998 p.153). Qualitative methods, specifically personal experience methods were employed to examine the life experiences of this Aboriginal researcher and other Aboriginal people with the Queensland Police Service in Rockhampton. This information has been gathered through

informal conversations between Aboriginal people and myself. These conversations in the form of stories have taken place in numerous environments, including but not limited to private homes, parks, Central Queensland University and after Community meetings.

Stories are grounded in the personal experiences of peoples' lives, they can be in written and oral form and each are valid forms of expressing personal experiences. Personal life experiences related to other people in the form of stories are the closest researchers can come to the actual experiences (Denzin & Lincoln, 1998 p.p. 154-155). Stories are the result of personal, social and historical experiences; they have been lived by the person telling the story. "Such lived experiences of 'Indigenous' Peoples enable 'Indigenous' researchers to speak on the basis of these experiences and are powerful instruments by which to measure equality and social justice of society" (Rigney, 1999 p.6). Aboriginal people need to have the opportunity to talk and/or write about their own personal experiences. For that reason, stories and perspectives/observations of Aboriginal people who have been arrested or had contact with members of the Queensland Police Service highlight Aboriginal perspectives of their relationships with police in Rockhampton.

Oral interviews with Aboriginal people for this research, shifts the frame of reference from non-Aboriginal to Aboriginal experiences. Accordingly, "the social sciences are founded on the study of experience" (Denzin & Lincoln, 1998 p.153). Experience is an integral component of life and in written, spoken and visual forms, it tells the story of individuals and their reactions, rituals, culture, socialisation processes and a plethora of other everyday actions. The experiences that Aboriginal people have had and continue to

have with members of the Queensland Police Service in Rockhampton, has to be told and for the purpose of this research, from an Aboriginal perspective.

Some researchers may define this research as subjective and see this as a negative. This research is certainly written from a subjective position. Subjectivity is derived from one's life history and is a "...complex composite of (one's) values, beliefs, interests, and needs" (Glesne & Peshkin, 1992 p.102). As a *Kameygal* man who has had prior encounters with members of the Queensland Police Service, in Rockhampton, the subjectivity within this research reflects my own and other Aboriginal peoples worldviews. Whilst objectivity is maintained through the statistical gathering phase, the subjectivity of personal experience enhances the story, which needs to be told. "Seen as virtuous, subjectivity is something to capitalise on rather than to exorcise" (Glesne & Peshkin, 1992 p. 104). This reality has shaped this researcher's worldview and consequential positioning within critical paradigms in order to address a social phenomenon.

Since the European invasion of Australia, Aboriginal perspectives have been, to a large extent, ignored. The perspectives of non-Aboriginal people writing and researching Aboriginal life have been endorsed by the dominant culture in Australian society (Langton, 1981 and Tatz, 1979). In 1974 the Australian Institute of Aboriginal Studies, under pressure from Aboriginal groups insisted that Aboriginal communities have a greater say in who enters their communities, "...reminding researchers of ethical standards of conduct" (Callan, 1986 p.23). It has only been in the last twenty or so years that Aboriginal activists, researchers and writers have been able to write about Aboriginal

experiences. These stories and research projects, in many instances, are the result of personal experience. These personal experiences are substantiated through knowledge of oral history, culture and customs.

A literature review detailing information gathered from various sources relating to Aboriginal and police relations has formed an important aspect of this research. There has been a plethora of stories in *The Courier Mail*, *The Morning Bulletin* and numerous current affairs and news programs relating to Queensland Police Officers alleged abuse of powers in relation to Aboriginal people. These texts include but may not be limited to the arrest of an Aboriginal professor in Townsville in 2000 for insulting language and the 1994 ‘Pinkenba Six’ case which has already been mentioned in the literature review. These newspaper articles are extremely significant as they give another avenue of investigation in the context of defining what on the surface, seems to be accepted ideologies of Aboriginal people by members of the Queensland Police Service. This information along with other texts provides an insight into the current attitudes of some members of the Queensland Police Services towards Aboriginal people.

Sampling:

It is extremely difficult to obtain samples that would be adequately large and representative of the Aboriginal point of view regarding relations with some members of the Queensland Police Service. For this reason I have relied heavily on secondary data to inform the background to the face-to-face interviews. Government agencies and large research organisations, such as Universities have exceptional databases that include

information on behaviors, personal attributes and attitudes. This data is gathered through major research projects, for example, the national census, and crime and employment statistics. This data is used to analyse and answer research questions and hypotheses and is described as secondary analysis (De Vaus, 1995 p.74).

Much of this data is found on the Internet, in University libraries, government departments and in the form of yearbooks and in other formats. Such data gives this researcher a far greater opportunity to analyse secondary data that would be near impossible to collect. Using secondary analysis I was able to bypass the construction and administration of questionnaires within the sampling phase (De Vaus, 1995 p.75). Primary data from a number of stories shared with me by Aboriginal men and women who have had personal experiences with or perspectives and observations of members of the Queensland Police Service, specifically in Rockhampton, informed the research and these stories are examined in Chapter 4.

Ethical Considerations:

The intrusive nature of in-depth interview methods means that ethical consideration must be given towards the human impacts on participants (Neuman, 1997 p. 344). Neuman (1997, p.p. 343-377) discusses field research issues including gaining access, entering and leaving the field, building rapport and ethical dilemmas. These issues apply in all research but particularly within Aboriginal communities, issues regarding Aboriginal protocol must be observed.

In order to undertake responsible research with and about Aboriginal people in Rockhampton, Aboriginal protocols in the form of oral and, in some instances, written permission from the storytellers who are the owners of their knowledge, experiences and stories and reside in the area where the study is taking place was granted (See appendix 3 for copy of consent form). Academic permission to conduct interviews was sought from Central Queensland University's Ethics Committee (CQUEC) in 2000. The coordinator from Rockhampton Aboriginal and Torres Strait Islander Legal Service was my Community Supervisor for this research.

Aboriginal protocols in regards to the use of information already gathered are strictly adhered since I was well aware of the consequences if these protocols were ignored in any way. Aboriginal protocols that have been followed include but are not limited to, constant negotiation, consultation, confidentiality, open communication and reciprocity. Reciprocity is the underlying moral protocol in engaging in research with Aboriginal communities. This means that copies of the completed research must be made available to all participants interviewed and relevant community members. Confidentiality is imperative in order to protect participants' identities unless permission to divulge has been given. Therefore, within the discussion chapter the names of Aboriginal people who shared their information with me were not used and any sensitive information was disguised.

For these reasons, this research project did not involve constructed in-depth interviews. However, informal interviews in the form of stories gathered through conversations in

various environments were conducted in 2001. This research was non-intrusive, non-manipulative and may be beneficial for participants and the Aboriginal communities in Rockhampton as it explores relationships and highlights areas where change may be beneficial.

Limitations of this Study

There are a number of limitations to this research project including the lack of statistical data relating to Aboriginal people held in police custody for any length of time. Because of the Royal Commission into Aboriginal Deaths in Custody (RCADIC) there have been three National Police Custody Surveys conducted in the month of August in the years 1988, 1992 and 1995 (Cunneen, 1997 p. 16). Currently these national surveys continue to be conducted on a yearly basis through the Australasian Centre for Police Research (ACPR). The ACPR is located in Adelaide, South Australia. The Royal Commission into Aboriginal Deaths in Custody (RCADIC) made 339 recommendations and, seems somewhat unusual that the Queensland Government cannot provide better statistics relating to Aboriginal people in police custody. This data needs to be collected and collated on a yearly basis resulting in a better statistical picture of Aboriginal people arrested and held in police custody, summonsed to appear in court, cautioned and released.

Another limitation to this research is the non-availability of statistical data relating to Aboriginal people who have received bail or who have been brought into custody but not

arrested. This source of data would be invaluable in contributing statistically to any research including but not limited to Aboriginal and police relations.

Conclusion:

To create new knowledge and theories within quantitative and qualitative social science inquiry, I have used a triangulation of method, since this was deemed to be the most appropriate way of conducting this research.

Operational definitions have been used to examine concepts and terms. A clear operational definition of the term/concept Aboriginal and Torres Strait Islander has been provided. The concept/term 'Indigenous' has been examined and it has been explained why this was inappropriate in this research. The quantitative data, which provides information relating to incarceration rates, population numbers and other statistical information for this research, has been gathered from a number of sources. Quantitative data gathering methods have provided precise numerical data from which variables can be identified and relationships or trends examined. Such examination has provided a background to the personal stories told.

The qualitative method of personal experience enables effective construction of a way to examine the underlying meanings of the human experience. Personal experience methods has given this researcher and Aboriginal men who have come into contact with members of the Queensland Police Service in Rockhampton a voice to express life experiences.

CHAPTER 4.

RESEARCH FINDINGS:

Introduction

As the previous three chapters have established the framework for this research regarding the proposition that police attitudes contribute to the overrepresentation of Aboriginal people in custody, this chapter describes the findings of the research. The chapter is divided into three sections the first section pertains to statistical data. Statistical data in the form of graphs are presented giving an insight into incarceration rates for Aboriginal and/or Torres Strait Islander males 17 years old and above and compares this data to non-Aboriginal and/or Torres Strait Islander males. It must be noted that Queensland population statistics gathered through the Australian Bureau of Statistics (ABS) 1996 Census are grouped in sections, for example 15-19 years. Consequently, an imbalance exists when comparing Queensland Corrective Services data with ABS data. An examination of the types of crimes that Aboriginal males are predominately incarcerated for in Queensland is offered and compared to data relating to non-Aboriginal male offenders. Any trends that appear within the statistical data were used to inform qualitative data gathered through the interview process.

The second section of this chapter examines data gathered from interviewed participants regarding their personal experiences and observations of police attitudes towards Aboriginal people in Rockhampton. The data is critically examined for any breaches of the *Police Powers and Responsibilities Act 2000*, non-compliance with any of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody, any

disregard for the guidelines for the use of capsicum spray in Queensland and any other breaches of current laws and human rights in Queensland. Any of these and other underlying issues that are identified in the participant's interviews is presented.

The third section of this chapter combines any trends that appear within the participant's interviews supplemented by statistical data and newspaper articles for a final analysis. A critical analysis using the concepts defined in chapter two attempts to analyse police attitudes and their contribution to the overrepresentation of Aboriginal people in custody.

Statistical Analysis

Queensland Corrective Service statistics present a history of the Queensland Criminal Justice System in terms of its output. With numerous limitations, Queensland Corrective Service statistics can be used to give an approximate insight into police attitudes towards Aboriginal people (Cuneen & McDonald, 1997 p.24). Police in Queensland are the first point of contact when entering the justice system and their attitude can influence whether or not a person is arrested. Therefore, a comparison of statistical data on incarceration rates of Aboriginal and/or Torres Strait Islander and non-Aboriginal and/or Torres Strait Islander males over the age of 17 provides a possible statistical insight into police attitudes towards Aboriginal and/or Torres Strait Islander males in Queensland.

According to the Australian Bureau of Statistics 1996 census (ABS, 1998 p. 7) there are 29,876 Aboriginal and/or Torres Strait Islander males over the age of 15, which equates to 2.25% of the total over 15 years of age male population living in Queensland. On the

other hand, there are 1,295,120 non-Aboriginal and/or Torres Strait Islander males above the age of 15, which equates to 97.75% of the total over 15 years of age male population living in Queensland in 1996 (ABS, 1998 P.7). On the basis of these statistics it would be reasonable to assume that Aboriginal and/or Torres Strait Islander males in comparison with non-Aboriginal and/or Torres Strait Islander males, would represent a small percentage within Queensland Corrections custody statistics. However, this is not the case as is evidenced below in figure 1-1.

**Queensland Inmates in Secure, Open and
Community Correctional Centres
as of 1999**

Inmate population characteristics	Secure	Open	Community Corrections Centres	Total
Non-Aboriginal and/or Torres Strait Islander	2909	507	334	3750
Aboriginal and/or Torres Strait Islander	940	100	34	1074

Figure 1-1 source: Queensland Corrective Services Annual Report 1999.

Figure 1-1 clearly shows the high level of Aboriginal and/or Torres Strait Islander incarceration rates for 1999 in Queensland. The data shows that Aboriginal and/or Torres Strait Islanders inmates account for 22.3% of the total prison population in Queensland. The statistical data is even more alarming when considering Aboriginal and/or Torres Strait Islander males over the age of 15 account for only 2.25% of the total 15> male population in Queensland. With Queensland population statistics being grouped in sections, for example 15-19 years and people not being sent to adult prisons in Queensland until they are at least 17 years old, statistically speaking the population

figures for Aboriginal and/or Torres Strait Islander males 17 years old and above should be even lower than 2.25%, resulting in an even more alarming statistic.

Figure 1-2 presents incarceration rates per 100,000 for Aboriginal and/or Torres Strait Islander males 17 years old and above over a five year period and emphasizes the high incarceration rates of Aboriginal and/or Torres Strait Islander males in Queensland.

**Queensland Prison Statistics
Rate per 100,000 Adult Populations**

Prison population characteristics	1996	1997	1998	1999	2000
Non-Aboriginal and/or Torres Strait Islander	139.6	149.2	171.3	177.2	165.5
Aboriginal and/or Torres Strait Islander	1457.4	1585.4	1693.8	1765.2	1622.0

Figure 1-2 source: Australian Bureau of Statistics 1996.

The statistical data in figure 1-2 shows an increase in Aboriginal and/or Torres Strait Islander incarceration rates per 100,000 since 1996. Whilst there is a slight decrease in 2000 in comparison to 1999 and 1998 there is currently no data available for 2001 to determine if a small downward trend is occurring. These statistics are quite disturbing considering that Aboriginal and/or Torres Strait Islander males over the age of 17 make up less than 2.25% of the total 17+ male population in Queensland.

Types of Offences Aboriginal people are incarcerated for in Queensland

Not all offences are punishable by incarceration nor is every person charged with an offence that appears in court, sentenced to a term of imprisonment. Incarceration is allegedly meant to be a sanction of last resort in Queensland (Cuneen & McDonald, 1997 p.31). This section examines the type of offences that Aboriginal males in Queensland are most likely to be incarcerated for and this data will be compared with that of non-Aboriginal males; thus giving an insight into the possibility that the high visibility of Aboriginal culture brings Aboriginal males to the attention of police and thus at risk of incarceration.

Figure 1-3 shows that Aboriginal males are more likely to be incarcerated for street offences. For the purpose of this research street offences are referred to as assault and good order offences. It also must be noted that offenders may be incarcerated for more than one offence (see page 66 for figure 1-3).

**Comparison of Aboriginal and non-Aboriginal
Street offences data in Queensland 1998-2000**

Offences	1998 Ab	1998 Non-Ab	1999 Ab	1999 Non-Ab	2000 Ab	2000 Non-Ab
Assault	466	379	637	709	495	366
Robbery	72	667	93	740	67	700
Break & Enter	325	1105	378	1232	298	954
Theft	63	212	167	436	93	457
Good Order Offences	180	162	255	244	252	368
Drug Offences	9	230	9	283	13	292
Traffic Offences	292	1018	371	1220	307	1014
Total	1407	3773	1910	4864	1525	4151

Figure 1-3 source: Queensland Corrective Service 2002

*Ab refers to Aboriginal males

**Non-Ab refers to Non-Aboriginal males.

These offences were selected for this research, as statistically they are predominantly the areas that Aboriginal males are most often incarcerated, the exception being drug offences. The categories of offences listed in figure 1-3 are classified for easier analysis. For the purpose of this research criminal offences within each classification have been defined as follows:

- **Assault:** includes assault common, assault other, unlawful wounding, aggravated assault, resist arrest and unlawful wounding.
- **Robbery:** includes armed robbery and robbery with actual violence.
- **Break and Enter:** includes burglary in relation to shops, dwellings and other building and possession of implements for break enter and steal.

- **Theft:** includes stealing, shoplifting, unlawful use of a motor vehicle and stealing from person.
- **Good Order Offences:** includes drunkenness, disorderly behaviour, evade fares, indecent behaviour, obscene language, liquor licensing offences and wilful damage.
- **Drug Offences:** includes supply drugs, trafficking drugs, selling drugs and cultivation of drugs.
- **Traffic Offences:** includes dangerous driving, drink driving, refuse breath test, unlicensed driving, driving under disqualification, driving under the influence unspecified and driving under the influence drugs or liquor.

Taking into account the classification for the terms used for the listed offences, it can be seen in figure 1-3 that Aboriginal males tend to be over-represented in the broad definition of offences assault and good order in comparison to non-Aboriginal offenders. On the other hand, Aboriginal males are less likely to be incarcerated for offences defined as drugs, theft, and robbery in comparison to non-Aboriginal offenders. Good order and assault are offences, which have been defined as street offences that are usually committed in an open or outside environment.

Participants Personal Experiences, Observations and Discussion

John

The first person interviewed was an Aboriginal man in his early twenties. Under the agreed condition of anonymity in this research, when mentioned in future references, person one will be referred to as John. John shares the following personal life experiences.

Them Rocky (Rockhampton) bullymen (police) are always pulling me up and hassling me no matter where I am. They ask ya where ya been, where ya going and why ya go there, always questions, just cause ya 'black'. I bet they don't hassle them 'whitefullas' like they do us *Murris*. They keep on pushin ya calling ya a f-cking 'black' c-n t trying to get you to have go at em, so they can charge ya with something. They just push and push and sometimes ya just have a go then they get ya. They just racist scum them bullymen.

This section of John's story clearly indicates the perceived racist attitudes that exist in some sections of the Queensland Police Service and with particular interest to this research, Rockhampton. In this instance, the evidence supplied by John suggests, that the police seem intent on provoking this young Aboriginal man through the use of derogatory language to the extent that he may fight back, thus giving them an excuse to arrest him. Using derogatory language towards Aboriginal people is a clear violation of the *Racial Discrimination Act 1975*, and further highlights the reality that these particular members of the Queensland Police Service see racism as acceptable behavior and the use of derogatory language as a form of social control.

During the early 1990's it wasn't uncommon in Townsville for police to arrest Aboriginal people for using offensive language in exchanges with police, who charged Aboriginal people under section 7 of the *Vagrants Gaming and Other Offences Act 1931* (Pirie & Cornack, 12-11-2001 p.140). Further evidence of the 'us and them' ideology that police exhibit in regards to the law and use of derogatory language is evidence by a 24-year-old man being fined in Rockhampton Magistrates court for using insulting words in

exchanges with Rockhampton police (no author, 30-03-02 p.7). It would seem that in John's story and the example supplied, the police are willing to arrest and charge Aboriginal people for using insulting language.

John continues:

I (re) member about a year and a half ago there was a mob of us just walking down the street, we was doin nothing just goin for a walk and havin a yarn. Them bullymen stopped us cause there been someone doin break and enters and they was looking for someone to arrest. They questioned us, and searched us and then they took mi cousin to the cop shop and he got jailed for nothing. Next time we saw him he told us them Rocky bullymen flogged him up tell he told em that he done them break and enters. We know he didn't do em cause he was in Brisbane when them things happened. That gamin Aboriginal legal mob in Rocky just told him to plead guilty and if he didn't they would not go into bat for him (represent him in court). So he did and he went to jail for doin nothing.

John's story further implicates Rockhampton Police Officers in the use of illegal tactics in gaining a confession. A police culture of violence and racial abuse towards Aboriginal people grows from John's story and underlines the techniques used to enforce social control. The *Police Powers and Responsibilities Act 2000*, Part 3, Section 247 clearly states, "A police officer who is questioning a relevant person must not obtain a confession by threat or promise" (<http://www.police.qld.gov.au>, p. 157) see also (*The Criminal Law Amendment Act 1894*, section 10, confessions). In addition, assault is still a criminal

offence in Queensland as is evidenced by the 861 people serving prison terms in 2000 for assault.

It is also interesting to note the report that the Aboriginal Legal Service in Rockhampton instructed an allegedly innocent Aboriginal man to plead guilty. This is an unacceptable situation, which needs further investigation to ascertain the attitudes or culture that may exist in the Rockhampton Aboriginal Legal Service and what affect this culture or attitude has on the members of that community. An investigation of the Rockhampton Aboriginal Legal Service is outside the scope of this research, however, it is an important issue that needs further amplification.

Julie

The second person interviewed is an Aboriginal community person who is in her early forties and was a former employee of the Queensland Justice system. For the purpose of this research and under the agreed condition of anonymity, when mentioned in all future references, person two will be referred to as Julie. Julie shares her comments and observations regarding members of the Rockhampton Police Region.

Some of Julies concerns include, “the whole interrogation system works against *Murris*” and “it is easy enough to get a conviction against a *Murri*, as they don’t have the resources, education and support to mount a case to defend them selves”. There are clear guidelines under the *Police Powers and Responsibilities Act 2001* relating to the interrogation of Aboriginal people as has already been explained in Chapter one of this

research. However, these guidelines are not always adhered to by Rockhampton police officers as will be illustrated further on in this chapter. Another issue that Julie highlights is “their (police) premise is they presume everyone (*Murriss*) is guilty”. Police have the power to arrest or caution a suspect, if police presume Aboriginal people are always guilty this would lead to a high number of Aboriginal people in custody.

Julie also observes a “them and us culture” socialised into a police culture in the Rockhampton region. Julie also states,

“they (police) do not embrace and practice cultural diversity; the only culture that exists is police culture, which is stronger than race, gender, religion and sexual orientation”.

A police culture that does not embrace and practice cultural diversity can and does lead to a police culture that accepts racism as a norm. As stated by Dillon (1997 p.168), “You may find it hard to believe but I suffered more racism within the Queensland Police Force than what I did in the general community”.

Julie identifies an issue that is relevant to keeping Aboriginal people out of custody when she states,

“Very little community policing, very little round the table practices”.

Recommendation 214 of the RCADIC defines community policing as central to sensitive policing strategies with particular reference to Aboriginal communities, organisations and groups. The Queensland Government and Police Service committed to recommendation 214 in March 1992 (Aboriginal Deaths in Custody Secretariat of the Queensland

Department of Family Services and Aboriginal and Islander Affairs, 1993 p. 330). There is an Aboriginal and Torres Strait Islander Community Justice Group in Rockhampton however at present they are grossly under funded and staffed, which is contrary to the Queensland State Government's commitment to the *Ten Year Partnership Plan* with Aboriginal and Torres Strait Islander people.

Billy

The third interviewed person is an Aboriginal man in his late teens. Under the agreed condition of anonymity in this research, when mentioned in future references, person three will be referred to as Billy. Billy shares his personal life experiences.

What happened to me was them coppers in Rocky had been chasing me for warrants for a long while but couldn't catch me. They chased me heaps but they to dumb and slow to catch me. They make ya weak them smurfs (police) specially the fat ones rolling after ya, its hard to run sometimes cause ya laugh so much. When they did catch me they threw me on the ground and hand cuffed me behind me back and them dragged me up to me feet. I wasn't fightin cause me hands were cuffed and they had me so I was ready to go with em. But then they sprayed that new capsicum shit they got in me eyes and that really burnt and it hurt to. I screamed for them to wash me eyes and take me to a doctor but they wouldn't. They didn't wash me eyes out until they got near the watch-house. They (police) shouldn't be allowed to do that cause its wrong, I didn't try and fight em, there f-cked them c-nts. My eyes could have been hurt bad cause of them.

Billy's story illustrates the culture of violence and racism that is used on Aboriginal people by some members of the Rockhampton police in order to instill conformity through violent social control. Power inequalities are also evident when a police officer can discharge capsicum spray into the eyes of a person who is in secure custody. Refusal of medical treatment is a direct breach of recommendation 122 of the RCADIC, which in part states, "...that each officer involved in the arrest, incarceration or supervision of a person in custody has a legal duty of care..." (Aboriginal Deaths in Custody Secretariat of the Queensland Department of Family Services and Aboriginal and Islander Affairs, 1993 p. 131). The Queensland Government supported recommendation 122 in March of 1992. The Queensland Police Service and Queensland Health were developing the new police service custody manual with appropriate 'duty of care' training jointly in 1992. However, in the example supplied it would seem that appropriate 'duty of care' is not an ethical issue that some Rockhampton police would like to adopt.

Billy continues:

Them bullymen called me a 'black' c-nt and 'black' dog, they just want ya to fire up so they can get ya for more charges. They hide behind their smurf suites (police uniforms) to scared to have a go one to one. Them mob are gutless, got no heart or spirit, but I guess that's what you get cause they ain't got no culture. They just convicts and invaders but nothing ever done to them for stealing my country.

Billy's story highlights the non-compliance of the Rockhampton police to recommendation 134 of the Royal Commission into Aboriginal Deaths in Custody (RCADIC), which clearly states,

That police instructions should require that, at all times, police should interact with detainees in a manner, which is humane and courteous. Police authorities should regard it as a serious breach of discipline for an officer to speak to a detainee in a deliberately hurtful or provocative manner (Aboriginal Deaths in Custody Secretariat of the Queensland Department of Family Services and Aboriginal and Islander Affairs, 1993 p. 145).

The Queensland Government supported recommendation 134 in March of 1992 and the Queensland Police Service were implementing the principles of the recommendation into their police service custody manual. However, in this instance Billy's story obviously shows that some police in Rockhampton with whom he came into contact, have little regard for recommendation 134 and are more inclined to use racist language to incite a reaction from this young Aboriginal man.

I asked the participant if he knew that he could report this incident to the CJC. The participant responded, "What for, them mob are 'white' they don't care about what happens to 'blackfellas'. Them smurfs (police) would just load you up with something so they could charge ya again. They don't care cause nothing will happen to them, they the law, they can do what they want and nobody cares. Well that's not true 'black' people care, well most of em but them 'white' ones don't give a shit".

It is quite apparent that there exists a police culture in some instances, which supports institutionalised racism as a norm and has effectively produced a “victim culture” amongst Aboriginal offenders, who see that there is no justice for them, as any complaints will, in their opinion fall on deaf ears. From 1999-2001 there were only three integrity tests undertaken on Queensland Police Officers, which considering that there are over seven thousand serving police officers in Queensland seems inadequate (Heffernan, 2001 p.3). Recommendation 226 of the RCADIC deals with complaints against police. It would seem from Billy’s perspective that the Queensland Police Service and Government have not implemented recommendation 226.

Jack

The fourth interviewed person is an Aboriginal man in his mid twenties. Under the agreed condition of anonymity in this research, when mentioned in future references, person four will be referred to as Jack. Jack shares this story.

Well I was out looking for this piece of ‘black’ shit that flogged up my sister in Rockhampton, I was gunna have a G O (fight) with him. See how he goes when he has to fight a man instead of a woman. I found him and put it on him that he flogged me sister and he thought he was real tough cause he had all these mates with him, but he didn’t know I knew them all to. So I started flogging into him for payback for my sister. Know one jumped in and we was going at it for a while and someone grabbed me from behind. I didn’t know who it was, I thought maybe one of his mates had tried to stop

it so I just smashed the back of my head into his face and turned around and smashed him. It was a copper so I took off! They didn't catch me that time but some dog (police informer) give me up and they got me later.

Jack shows the continuation of the payback system as practiced by numerous Aboriginal people through out Queensland. In Jack's case he followed, what was for him, accepted protocols of his people and sought payback for his sister. The police, who in this instance did not understand the payback system, intervened, thus escalating the situation. The situation described identifies the limitations of the current cross-cultural awareness programs delivered to new police recruits in Brisbane and Townsville. The most logical process in this instance is for the police to approach from the front of the people involved in the scuffle and identify themselves, thus not escalating the situation. Once the two opponents were separated the issues that led to the scuffle could be aired.

Jack continues:

When them Rocky coppers got me they cuffed me and then flogged me up they always do that there gutless them maggots. They charged me with assault police; resist arrest and being drunk in public or something like that. I didn't even drink that day I flogged that c-nt and he wasn't drunk either. I had the last laugh cause I beat them charges cause I had a good solicitor, better than them gamin 'white' ones from Aboriginal Legal Aid who just want you to plead guilty. He beat them (police) because they were supposed to identify themselves and they didn't and they could not prove I was drunk.

Jack's story provides further evidence of the existence of a police culture, which accepts physical abuse of Aboriginal people as normal behavior. Police use of excessive violence in any form is illegal under Queensland law and yet here are the alleged protectors of Queensland society, which includes Aboriginal people using violence to achieve social control over Aboriginal people. Such reports of police brutality demonstrates why Aboriginal people generally have low opinions of and distrust for Rockhampton police. It is also interesting to note the negative attitude towards the Aboriginal Legal Service.

I asked did he know that he could report the police to the CJC for hitting him. The participant responded "what for no one would believe me they are probably all 'white' them CJC. Anyway them coppers got all the power they just get me another way".

Jacks comment supports the existence of power inequalities between police and Aboriginal people. The story also gives credence to the reality that a "victim culture" is emerging among Aboriginal people in relation to equity in justice. The perception seems to be that police have all the power and statutory authorities such as the Criminal Justice Commission (CJC) do not hear the voice of Aboriginal people.

Greg

The fifth interviewed person was an Aboriginal community person in his late 50s. Under the agreed condition of anonymity in this research, when mentioned in future references,

person five will be referred to as Greg. Greg shares his life experiences and observations relating to police attitudes towards Aboriginal people.

When I was a young fella growing up north of Rockhampton if any trouble happened in the town them police would come straight to me and my mates. It didn't matter that we had done nothing, we was 'black' and in the polices eyes we was guilty. Looking at all them young ones that are getting jailed today I would say that nothing has changed. To me the police and courts seem to think if your 'black' you gotta be guilty of something. I think the police have too much power and they use that power to discriminate against them young *Murris*.

Greg's observations, which span over fifty years supports reports of the continuance of institutionalised racism. Being guilty of something because you are 'black' highlights the stereotypes that all Aboriginal people are criminals and puts further emphasis on the use of institutionalised racism as a tool of conformity through social control.

Greg continues:

The grog also causes some of them young ones to get jail because it sends them silly. They got nothing to do, there is no jobs, school don't understand how we learn and we not passing on our culture like we should be, so some of them young ones got no direction. We need more role models to show them young ones that they can do anything they want if they try hard enough. When I was young we had heaps of work if you wanted it and we

always played sport to gives us some goals, discipline, make friends and keep us fit.

A lot of these young ones don't want to do that they think it makes you a man to go to jail. Maybe some of them think that jail is an initiation like long long time ago, maybe we should be using our laws instead of 'white' ones that would slow them up real quick. But the police have got a lot to answer for because they keep on pushing some of them young fella's and sometimes they just can't take no more and they get into them (police) and of cause end up in jail.

The need for a culturally safe education environment is highlighted in Greg's story and further underlines the need for an education system that understands cultural difference. The Queensland government in March 1992 supported the RCADIC recommendations 290, 291, 292, 295 and 297, which all relate to the education system (Aboriginal Deaths in Custody Secretariat of the Queensland Department of Family Services and Aboriginal and Islander Affairs, 1993 p.p. 299-308). However, to date many of the aforementioned recommendations of the RCADIC have not been implemented in the schools systems in Rockhampton or on the Capricorn Coast. Culturally appropriate education for our children/youth could be achieved if Aboriginal Elders or suitably skilled Aboriginal people supported by the original custodians of a given country, were to be employed within all levels of the education system. While outside the scope of this research questions about education are very important and need to be investigated.

Greg's story also highlights the effects of alcohol on Aboriginal people with the possible outcome, incarceration of our people. The lack of Aboriginal role models, sporting opportunities and facilities may also contribute to a state of boredom leaving people vulnerable to alcohol and drug abuse, which may lead to incarceration. Greg's observations support the existence of a bastardised Aboriginal culture, which facilitates incarceration as an initiation right that could also be described as a badge of honour amongst young Aboriginal offenders. The introduction of customary law is a strategy that Greg sees as an alternative to 'white' mans law. In March 1992 the Queensland Government supported recommendation 219 of the RCADIC, which dealt with the introduction of customary law. The options of customary law need further investigation however this is outside the scope of this research.

Greg's perceptions provide further evidence that supports the misuse of power by members of the Rockhampton police, who seem intent on not implementing and supporting the RCADIC recommendations.

Greg continues:

Some of them police are really good and try to talk to you to work out better ways to deal with some of the things that happen and they speak from the heart, they really try. But what happens is some of the other police don't like that and so they bring em into line. It is like they (police) have got their own culture and if you don't run with the pack well you are on the outer. 'Black' fella's don't fit into their (police) culture so we are on the outer from the beginning. That makes me real sad because if they (police) cannot

work with us and mean it, well nothing is going to change. It will be like the stolen generation, we will loose generations of our people into the jails.

Greg's story suggests the existence of a socialisation process whereby conformity to the dominant culture, in this instance police culture, is imperative if a police officer wants to be accepted as a member of the Queensland Police Service. Incarceration and arrest of Aboriginal people in Queensland has increased considerably since the completion of the RCADIC and Aboriginal people have been described as being the highest incarcerated people in the world (Walker, 1995, p.p. 13-15). If police have been socialised to accept racist attitudes towards Aboriginal people as a norm, Aboriginal people are at risk of continuing to be incarcerated in record numbers in Queensland.

Steven

The sixth interviewed person was an Aboriginal man in his mid thirties. Under the agreed condition of anonymity in this research, when mentioned in future references, person six will be referred to as Steven. Steven shares the following stories and observations.

Lets see now, there is heaps of things I've seen happen and quite a few that have happened to me with them police. Although they (police) have never charged me with anything. I know one thing for sure is that if you're 'black' and there is any drama like a fight them Rocky police come straight for you and leave the 'white' ones alone. Over the years I've seen them Rocky police trying to bait our people especially them young fella's, trying

to get them to have a G O (fight). They use racist tactics like calling you a 'black' c-nt etc, so that you will react and when you do they got ya.

Steven's story highlights the existence of a police culture, which has produced through socialisation a system of institutionalised racism, which is seen by police as an accepted norm when dealing with Aboriginal people. Recommendation 60 of the Royal Commission into Aboriginal Deaths in Custody (RCADIC), clearly states, "That police take all possible steps to eliminate: Violent or rough treatment or verbal abuse of Aboriginal persons including women and young people, by police officers" (Aboriginal Deaths in Custody Secretariat of the Queensland Department of Family Services and Aboriginal and Islander Affairs, 1993 p. 64). In this instance some police in Rockhampton have failed to implement and support recommendation 60 of the RCADIC, despite the Queensland Government support of recommendation 60 in March 1992. The *Police Service Administration Act 1990* clearly supports the elimination of all forms of physical and verbal racism by its members.

If the situation was reversed in Steven's story and an Aboriginal person used derogatory language towards police they would be arrested, as is evidenced in the arrest of Professor Gracelyn Smallwood an Aboriginal women from Townsville. On Friday 18th February 2000, Professor Smallwood, an Aboriginal health expert, was arrested when she intervened in a scuffle between police and Aboriginal people in Townsville. Police allege that they were insulted when Professor Smallwood referred to them as members of the Ku Klux Klan (Pavey, 23-2-2000 p.1). It would seem that from the example supplied

police were insulted when referred to as the Ku Klux Klan, but seem to think that Aboriginal people will not be insulted if they are referred to as 'black' c-nts. This example illustrates the double standards and the abuse of police powers in Queensland.

Steven continues:

You should go and talk to ----- and --- ----- (names deleted) I was studying with them at TAFE and them two young fella's were always getting harassed by them Rocky police. One of them young fella's told me he was thrown on the ground and them Rocky police sprayed him with capsicum spray and he said he was doing nothing wrong. Like I said before these derogatory racist name calling tactics and use of violence happened over the last 25 years and it isn't getting any better, actually I think it is getting worse. I think them young police are trying to make a name for themselves, because them old racist police are still there and these young one's (police) need to fit in to that racist police culture so that they are accepted.

Steven's perception of police attitudes towards Aboriginal people in Rockhampton supports the proposition of a system of socialisation that produces a police culture, which accepts racism as normal behavior. To fit in with the expectations of fellow police officers, particularly senior officers, police appear to have to conform to the accepted norms within the service. This socialisation process is referred as the *normative* view of socialisation, a process whereby significant others and the environment influence the growing characteristics of the subjects, in this instance some Rockhampton Police

Officers (Denisoff & Wahrman, 1975) and (Baldrige, 1975) (cited in Najman & Western, 1996 p.17).

Steven continues:

The way I see it is them police stereotype *Murris*, they think all us mob drink, smoke yarndi (marijuana) and run amuck. That isn't true, I don't smoke yarndi or drink and neither do many of my brothers (other Aboriginal men not necessary related) or cousins. Some of them do but not to excess. But we still get hassled and called derogative names they (police) still try to get you fired up so they can charge you for something. But many of us have a better education now and we know the rules and can cause them a lot of trouble through the CJC and the media. We can get our payback now!

It would seem from this section of Steven's story the power inequalities that currently exist between Aboriginal people and police have potential to change. Education has given Steven and many other Aboriginal people the opportunity to understand legislation and relevant *Acts* that police are required to adhere to in relation to Aboriginal people and all people in general. The education process has produced a level playing field for some Aboriginal people who know their rights and are prepared to make formal complaints to the relevant authorities. However, there are still many Aboriginal people, who have not accessed, for numerous reasons, the education system, thus leaving many Aboriginal people at risk of becoming victims of a racist police culture in some sections of the service in Rockhampton.

Chantal

The seventh person was an Aboriginal woman in her early thirties who has academic qualifications. Under the agreed condition of anonymity in this research, when mentioned in future references, person seven will be referred to as Chantal. Chantal, shares the following perspectives and observations on police attitudes towards Aboriginal people.

By simply being young 'black' and male you're visible. In a group situation walking down town the coppers will always slow down for a good look. If a young 'black' fella reacts then there in trouble. The police don't understand cultural difference. Police should through their cross-cultural awareness training know by now that if you stare at a *Murri* most of the time you will get a violent reaction or at the very least some colourful language and hand signals. I think the police do understand cultural difference and use this knowledge as a form of intimidation to get them young fellas fired up so that they can arrest them.

Chantal presents the view that the high visibility of young Aboriginal males brings them to the attention of police. Staring at Aboriginal people as has been discussed earlier in Chapter two, will result in some sort of reaction depending on the situation, which can result in conflict and possible arrest. The Queensland Police Service currently runs a cross-cultural awareness program for new recruits during their initial training. However, the cross-cultural awareness program does not have local content and therefore fails to identify cultural differences between Aboriginal clans and communities in Queensland. In other words, what may be successful cross-cultural communication; awareness and

strategies defined in Brisbane will inevitably be unsuitable in Rockhampton due to cultural differences. As identified by Chantal the cross-cultural awareness program can be perceived as window dressing; the Queensland Police Service is not committed to addressing cultural difference.

Chantal continues:

To me as a 'black' woman you are perceived as less than 'white'. Police seem to think that 'black' women deserve to be treated like trash, that we are dirty, sleep around, deserve the violence and that we are lying. They (police) take the word of a 'white' person over yours. For example if a 'black' woman makes a complaint it is not acted on however, if a 'white' woman makes a complaint it is acted on. It's just plain racism

Racism seems to be entrenched in the police force it is a part of police culture and if a police officer does not comply with this culture than other officers exclude them. So they (police) have what police see as an acceptable view of Aboriginal people and this view is socialised into police culture.

Chantal presents the perception that a police culture of institutionalised racism is present within the Queensland Police Service. From Chantal's perspective, racism, is entrenched within the police service as is evidenced by the perceived lack of response to Aboriginal women's complaints and the issue of 'white' women being considered more credible than Aboriginal women. Acculturation of police into a culture of racism and social control are

very important issues and need further investigation, which is outside the scope of this research.

Chantal continues:

Being 'black' makes you visible and then you attract the attention of the police who assume you're guilty of something. This situation is more intensified if your homeless, unhealthy, unemployed and lack educational skills in the 'white' meaning of the word; in other words if your impoverished you are more likely to be arrested, whether your guilty or not.

Chantal's observation shows continuation of distrust and fear that has been fostered historically between Aboriginal people and the police in Queensland. The perception that Aboriginal people are still stereotyped as criminals by police reinforces the underlying ideology that Aboriginal people are guilty of something whether police can proven it or not. As stated by Professor Smallwood (23-02-2000 p.2) "If you're black, or white and poor, or a sole parent, or gay, the police misuse their power".

Gene

The eighth interviewed person was a non-Aboriginal parent in his late thirties who has three Aboriginal children. This interview is significant to this research as a non-Aboriginal parent shares his perspective of police attitudes towards Gene's two young Aboriginal sons. Under the agreed condition of anonymity in this research, when mentioned in future references, person eight will be referred to as Gene. Gene shares the following experience of what happened to his sons with the police.

On Sunday 20th August at approximately 8am I was approached at home by a police officer (name deleted) about two stolen motorbikes from (name deleted) Caravan Park. He (police officer) said the two bikes were pushed from the caravan park to my house and loaded onto a Ute. He (police officer) then approached a friend (name deleted) and it seems he suggested that her and my son had stolen the bikes. He then approached my son, (name deleted) who was 17 years old at the time, at his girlfriends place and said that he had stolen the bikes and my Ute to take them away.

Gene's personal experience suggests just as Julie and Chantal the second and seventh people interviewed that police are of the opinion that you are guilty until proven innocent and this is even more apparent if you are an Aboriginal male and live in the Rockhampton police region. Under the current justice system in Queensland it is the responsibility of the police to prove that an alleged offender is guilty. Gene's story highlights the lack of professionalism and best practice in relation to investigating alleged criminal activity.

Gene continues:

He (the police officer) was informed by myself that my girlfriend (name deleted) had the Ute. Although my son (name deleted) had brought the police to my girlfriends (name deleted) place to prove he didn't have a clue as to what they (police) were talking about. He (police officer) approached

my girlfriend (name deleted) and asked her whereabouts on Saturday night Sunday morning.

On Monday morning 21st August I approached my neighbor and told him the story. He said someone was in ----- Street (street name deleted) approximately mid-night. I asked my neighbor if he could go and speak to the police and let them know that there was someone in the street on the night in question, which he did.

Later that day the police had approached my other son, who was 15 years old at the time, and questioned him at home without an adult present and tried to intimidate him by accusing him of knowing something about and having something to do with the theft of the bikes. Their (police) approach to the situation that day reminded me of interrogation techniques that you see in a war movie.

The intimidation tactics used by police on Gene's 15-year-old son demonstrates the power inequalities between police and a young Aboriginal youth and further highlights the unethical practices that some Queensland Police Officers in the Rockhampton region will use to try and gain information and or a conviction. Gene's story illustrates the lack of response to recommendation 244 of the RCADIC by Queensland police officers. Recommendation 244 clearly states' "That no Aboriginal juvenile should be interrogated by a police officer except in the presence of a parent, other person responsible for the care

and supervision of a child...” (Aboriginal Deaths in Custody Secretariat of the Queensland Department of Family Services and Aboriginal and Islander Affairs, 1993 p. 258). The Queensland Government supported recommendation 244 in March 1992.

Gene continues:

The only facts are: The bikes did seem to be in ----- Street (street name deleted) that night. I do not believe that the bikes were at all in my yard as was originally stated by police (name deleted).

It is a shame that instead of people wanting to help the police, I do not feel comfortable anymore. My sons feel that they (police) are dick-heads; I am inclined to agree with them after this recent incident.

The final section of Gene’s story portrays the view of his Aboriginal sons in regards to their less than positive perceptions of members of the Queensland Police Service, a view, which is supported by their father. The public perception, in this instance from a non-Aboriginal person and two young Aboriginal youths shows some police have a lack of respect for Aboriginal people and further enhances the perception that if your ‘Black’ you will be harassed by some police in Rockhampton.

Final Discussion

A number of trends have been identified within the statistical data including the high number of Aboriginal males in custody compared to non-Aboriginal males. Aboriginal people in many but not all instances use and occupy public space for many reasons

including, love of country, commitment to family and companionship, we gather to eat, laugh, talk and in some instances drink, these gatherings are a way of catching up with each other and finding out what is happening within our various communities. In many instances these meetings are in open or outside environments thus making Aboriginal people highly visible to the police and therefore at risk of arrest, due, in many instances, to institutionalised racism, which has been socialised into a police culture by certain members of the Queensland Police Service in Rockhampton.

It would seem that certain police officers within the Queensland Police Service have contributed to the high incarceration rates of Aboriginal males due to their racist comments and actions. A statement by a serving police officer with twelve years experience within the Queensland Police Service concluded that:

There is entrenched racism in the police force and there is an element of police officers who are racist... I have been present when racist comments have been made by senior officers. I have also on occasions seen violent behaviour towards Aboriginals by police officers. [There is] consistent and widespread maltreatment of Aboriginal and Islander peoples by police. (Human Rights and Equal Opportunity Commission, 1991, cited in Cunneen, 1996 p.31).

The officer also gave evidence that at various times, he had witnessed numerous assaults on Aboriginal people by police officers. This form of social control is problematic as it reinforces the accepted racist attitudes of certain members of the Queensland Police Service, which in turn identifies a police culture where institutionalised racism and violence is seen as acceptable behaviour.

The existence of institutionalised racism has already been identified within the stories gathered through the personal experiences of the Aboriginal people interviewed. A number of interviewees have identified the use of violence and misuse of power by Rockhampton police to extract confessions and as a tool to enforce social control. Two out of the eight Aboriginal people interviewed identified the illegal use of capsicum spray by the Rockhampton police.

In October 1997 a steering committee consisting of the Queensland Police Service and Criminal Justice Committee was formed to implement, evaluate and make recommendations on the use of capsicum spray in Queensland. The policy developed from the capsicum spray trial in part states “Defensive spray may be appropriate to use when police need to”:

- Defend themselves or others if they fear physical injury to themselves or others and they cannot reasonably protect themselves or others forcefully.
- Arrest an offender if they believe on reasonable grounds that the offender poses a threat of physical injury and the arrest cannot be effected less forcefully (Criminal Justice Commission and Queensland Police Service, 1999 p.p. 8-9).

From the information gathered in the interview with one Aboriginal man that was assaulted with capsicum spray and another who was aware of a friend that was also assaulted by police using capsicum spray, evidence suggests that some Rockhampton police officers acted illegally by not following their own policy. The illegal use of capsicum spray on these two Aboriginal men in Rockhampton by these police gives

further weight to the existence of a racist police culture, which has established violence as a useful tool for enforcing social control.

Evidence has been presented, which identifies a trend of police harassment and intimidation as a result of some police officers in Rockhampton using insulting and racist language when dealing with Aboriginal people. The acceptance of institutionalised racism that has been socialised into a police culture reflects on the type of person that is attracted to joining the Queensland Police Service. According to the Royal Commission into Aboriginal Deaths in Custody (RCADC), police officers in general are the products of lower middle class working families and therefore have been socialised in their upbringing to accept concepts including prejudice, racism and intolerance, which were accepted norms within Australian society until recent times (La Macchia, 2000 p. 2). It is evident from the personal experiences of the Aboriginal people interviewed and statistical data provided that much of Australian society still accepts racism and intolerance.

A police culture that supports institutionalised racism can be a dangerous situation for Aboriginal people as police officers have enormous power when it comes to deciding whether arrest or caution is the appropriate course of action to take. The high visibility of Aboriginal societies, which in turn, are confronted by police who internalise a racist culture, has produced a continuous history of overrepresentation in custody for trivial offences against good order (Williams-Mozley, 1998 p. 5). The statistical data supplied earlier in this chapter identifies a trend of Aboriginal people being incarcerated in Queensland for good order offences in 1998 and 1999 at a higher rate than their non-

Aboriginal counterparts. The trend of high incarceration rates for good order offences is even more alarming considering that Aboriginal males over the age of 17 make up less than 2.25% of the total 17 year old and above male population in Queensland.

A consistent trend of police violence perpetrated on Aboriginal men in Rockhampton has been identified in the interviews. The use of police violence highlights historical trends relating to the use of violence as a tool of social control and oppression by the invaders of the land mass now known as Australia. Police were and still are the agents of social control under Queensland law and in most cases were responsible for the removal of Aboriginal people off their country, in many instances with extreme force. Racism, which in turn can produce violence, is a well-established custom within the senior ranks of the Queensland Police Service (Dillon, 2000 p.3). The use of violence by police on Aboriginal men in Rockhampton will continue until senior officers change their racist attitudes and implement a locally produced and delivered cross-cultural awareness program and enforce the current police code of conduct as stipulated under the *Police Powers and Responsibilities Act 2000*.

Conclusion

The evidence gathered from Aboriginal people clearly shows that institutionalised racism appears to have been socialised into the police culture in Rockhampton, which in turn is used by some to establish social control over Aboriginal people through brutality and misuse of power. The result of a racist police culture contributes to the continuation of the high arrest and incarceration rates of Aboriginal people. If the Queensland

Government and Police Service permit this situation to go unchecked Aboriginal people will continue to be the most incarcerated people in the world. The existence of a police culture by many officers in Rockhampton, which accepts abuse, brutality, racism, misuse of power and non-conformity to Queensland laws and Police *Acts* as normal acceptable behavior when dealing with Aboriginal men, has produced a practice, which is perceived as contrary to accepted Australian standards.

CHAPTER FIVE

CONCLUSION:

Introduction

This research has reported on police attitudes towards some Aboriginal people in Rockhampton and how these attitudes appear to have contributed to the overrepresentation of Aboriginal men in custody. This chapter concludes the process by reviewing the research, discussing the implications of the research and defining areas of further research.

Reviewing of the Research

Several issues, as they relate to the study of police attitudes contributing to the overrepresentation of Aboriginal men in custody have been highlighted throughout this research. The research topic has been explained along with an historical overview of Aboriginal and police relations in Queensland, which contributed to identifying a history of violence, brutality, racism and social control perpetuated on Aboriginal people by succeeding Queensland Governments and its Police Service. An overview of the Queensland Police Service and its structure has been offered. The literature review presented an analysis of relevant sections of the *Police Powers and Responsibilities Act 2000*, the *Racial Discrimination Act 1975* and the *Commission of Inquiry (Deaths in Custody) Act 1987-1991* in relation to this research. Cultural difference and visibility was also discussed along with one insider's view of the Queensland Police Service.

Theoretical concepts, institutional racism, socialisation/institutional socialisation, culture and social control have been examined, defined and linked together to formulate a theoretical framework of critical theory to investigate the proposition that ‘police attitudes contribute to the overrepresentation of Aboriginal men in custody’. The methodology chapter operationally defined the terms used throughout this research and identified the quantitative data sources. The qualitative method of personal experience has been explained along with the ethical considerations used when working with Aboriginal people for this research. Examples have been supplied relating to the limitations of this research.

Statistical data gathered from Queensland Corrective Services and the Australian Bureau of Statistics have been graphed to identify current trends in Aboriginal incarceration in Queensland. An analysis of the personal experiences and observations of Aboriginal people relating to interactions with police in Rockhampton has been offered, along with a final examination of the quantitative and qualitative data. These distinct elements of the research have been linked and support the proposition that Police attitudes contribute to the overrepresentation of Aboriginal men in custody.

Implications of the Research

Having reviewed the major elements of this research, it is appropriate to contemplate the extensive implications of the research findings. One of the main focus areas in the design of this research was the relevance of Aboriginal worldviews, which resulted in Aboriginal people having a voice throughout the entirety of the research process. As an *Eora* man who is starting out on the long learning journey to become a researcher it was imperative

that Aboriginal people be accorded the right for our voices to be heard. For a long time non-Aboriginal people have been researching Aboriginal people and the issues that affect us from their own worldview as outsiders to our cultures and histories; the distinction in this research is that Aboriginal voices are presented by an Aboriginal researcher.

The statistics provided disclose the high number of Aboriginal men incarcerated for street offences including, assault and good order, which relates directly to the high visibility of Aboriginal cultures. The visibility of Aboriginal cultures is apparent within the interviews and throughout the discussion stage of the research. The subjectivity of this research is an essential element in creating an environment, which includes Aboriginal worldviews and thus, developing culturally safe research from an Aboriginal perspective. Aboriginal people have been given the opportunity to discuss their views and experiences relating to police in Rockhampton with an Aboriginal researcher, who has had previous life experiences with the police in Rockhampton.

The quantitative data provided a picture of the state of Aboriginal incarceration in Queensland, which in the Australian context, is second only to New South Wales (Cuneen & McDonald, 1997 p. 12). The appalling situation of high incarceration rates of Aboriginal people has been further highlighted through the personal experiences and observations of Aboriginal people relating to their contact with police in Rockhampton. The brutality, racism and social control existing within a framework defined as a police culture is contributing to the high incarceration rates of Aboriginal men. If the situation

was reversed and non-Aboriginal people suffered the same incarceration rate as those of Aboriginal communities, “nothing less than a state of emergency” would be declared (Pearson, 2002, p. 1).

Suggestion for Further Research

This research has identified a number of possible avenues for productive research. The recommendations for further research include, a look into the Aboriginal Legal Service in Rockhampton. The qualitative data provided gave an insight into the neglect of Aboriginal men and their rights to be innocent until proven guilty as evidenced by the report that the Rockhampton Aboriginal legal Service instructed an allegedly innocent Aboriginal man to plead guilty. This is an unacceptable situation, which needs further discussion to ascertain the attitudes or culture that may exist in the Rockhampton Aboriginal Legal Service and what affect this culture or attitude has on the overrepresentation of Aboriginal people in custody.

Another area for discussion identified within this research is the introduction of customary lore (law) as opposed to ‘white’ mans law. There are a number of Aboriginal communities that successfully practice customary lore (law) within Queensland including, Old Doomadgee, Bedungoo and Bentinck Island. Alcohol has been banned from these communities, resulting in a significant reduction of violence and a healthier community. Anyone who is caught bringing alcohol into these Aboriginal communities faces punishment under customary lore (law) as determined by the Elders and designated lore (law) men enforce punishments (Yanner, 2001 cited in Madigan, Franklin & Wenham, 2001 p. 6). The use of customary law as a deterrent to offences against the person and

property is an important issue that certainly needs to be researched, especially considering the possible benefits to communities including, better health, employment, housing and education opportunities.

The need for a culturally safe education environment is another area identified by participants in the interview process, which needs further research. Culturally appropriate education for our children/youth could be achieved if Aboriginal Elders or suitably skilled and or qualified Aboriginal people were to be employed within all levels of the education system. Aboriginal experts could teach student's Aboriginal culture, history, protocols and issues relating to the social and political movements of our people, at all levels of the education system. Education is a very important issue for our people and needs to be researched along with the need for cultural awareness programs to be developed and delivered locally. Research into the areas of cross-cultural awareness is essential to producing local information to acculturate police into understanding the Aboriginal culture specific to the region where police are employed.

Finally, the duality of racism and its effect on Aboriginal people of all ages and gender needs further in-depth research. Racism has led to a history of crime and violence perpetuated on Aboriginal people by the dominant culture in Queensland, which has led to the criminality and criminalizing of Aboriginal people (Williams-Mozley, 1998 p.5). The duality and effects of racism in policing of Aboriginal people is identified by Marcus (1991) who states,

...the level of supervision and scrutiny, the colonising, dominating gaze which follows Aboriginal people around the street, into their homes, their marriages, their child bearing and rearing, and out again into the schools, the parks and the streets, will of itself provide the detail to support the dominating interpretations of Aborigines as chaotic and disorderly by nature. It will also create the conditions of terror that sap the will as well as creating the resentment that produces sometimes resistance, sometimes withdrawal, the terrifying suicides and the frustration that injects violence into the private and personal relations of individuals with each other to create what might indeed be called, a domestic and specifically Aboriginal 'space of death'.

Research conducted by appropriately qualified Aboriginal researchers, negotiating with Aboriginal people at all stages of the research process is essential. This process will personalise the research and give Aboriginal people a voice in defining the effects relating to the duality of racism levelled at Aboriginal people.

Conclusion

This chapter has reviewed the research and discussed the implications of the research relating the importance of Aboriginal voice in research. A number of very important issues relating to further research have been identified and briefly discussed.

RECOMMENDATIONS

There are a number of issues that have been identified within this research. These issues may be addressed through implementation of the following recommendations.

1. The design and implementation of a locally produced Cross-Cultural Awareness Program. This program would need to be developed in partnership with the *Darumbal people, SIAMA Torres Strait Islander Association*, the local Aboriginal and Torres Strait Islander communities and police from the Central Region Police District in Rockhampton. Aboriginal and Torres Strait Islander facilitators acceptable to the community from the Rockhampton region would then be paid to deliver the program.
2. That all ranks within the Queensland Police Service including, the Minister for Police should attend locally produced Cross-Cultural Awareness Programs on a yearly basis. This process would help educate police and in time it is hoped change the current attitudes police have towards Aboriginal and Torres Strait Islander peoples.
3. That the Queensland Police Service establishes a comprehensive data collection system to gather data in relation to Aboriginal and Torres Strait Islander people held in police custody by age, gender, given bail, summonsed to appear in court, cautioned and released. These records should be collected throughout the entire year.
4. That the Rockhampton Aboriginal and Torres Strait Islander Legal Service facilitate public forums throughout the area that is covered by the service to inform community of the service's role in supporting Aboriginal and Torres Strait Islander peoples who come into contact with the justice system. These forums could also identify other issues that need to be addressed by the Rockhampton Aboriginal and Torres Strait Islander Legal Service.

5. The development of a Board independent of the Queensland Police Service consisting of a representative of the *Darumbal people*, and a representative from each of the Aboriginal clans whose country is within the boundaries of the Central District Police Region, a representative from *SIAMA Torres Strait Islander Association*, a high ranking Judge, Barrister and a high ranking representative from the Criminal Justice Commission. This board would be given authority through the introduction of relevant laws by the Queensland Government to act on complaints by community against police officers.

6. Central Queensland University (CQU) employ an appropriately qualified Aboriginal and/or Torres Strait Islander person to conduct research into formulating a protocols document relating to research ethics when dealing with Aboriginal and/or Torres Strait Islander communities in Central Queensland. This would entail consultation and negotiation with representatives of the various Aboriginal clans whose countries are in Central Queensland and *SIAMA Torres Strait Islander Association*. The Traditional Custodians of the area where the research is going to be conducted should be represented on the Universities Ethics Committee and have final say on whether the research proceeds.

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APPENDICES

APPENDIX 1

The Police Powers and Responsibilities Act 2000

Part 3-Safeguards ensuring rights of and fairness to persons questioned for indictable offences.

Under Part-3 of the *Police Powers and Responsibilities Act 2000* (PPRA), Division 3-Section 25 relates to ‘Special requirements for questioning particular persons’ in this instance, ‘Questioning of Aboriginal and Torres Strait Islander people’.

(1) Section 251 applies if;

1. A police officer wants to question a relevant person;
2. The police officer reasonably suspects the person is an adult Aboriginal or Torres Strait Islander person.

(2) Unless the police officer is aware that the person has arranged for a lawyer to be present during questioning, the police officer must,

1. Inform the person that a representative of a legal aid organisation will be notified that the person is in custody for the offence;
2. As soon as reasonably practicable, notify or attempt to notify a representative of the organisation.

(3) Subsection (2) does not apply if, having regard to the person’s level of education and understanding, a police officer reasonably suspects the person is not at a disadvantage in comparison with members of the Australian community generally.

(4) The police officer must not question the person unless,

1. Before questioning starts, the police officer has, if practicable, allowed the person to speak to the support person, if practicable in circumstances in which the conversation will not be overheard;
2. A support person is present while the person is being questioned.

(5) Subsection (4) does not apply if the person has, by a written or electronically recorded waiver, expressly and voluntarily waived his or her right to have a support person present.

(6) If the police officer considers the support person is unreasonably interfering with the questioning, the police officer may exclude the person from being present during the questioning (<http://www.police.qld.gov.au>, p.p. 159-160).

APPENDIX 2

The Police Powers and Responsibilities Act 2000

Part 4-Directions to move-on

36 Part does not apply to authorised public assemblies

This part does not apply to an authorised public assembly under the *Peaceful Assemblies Act 1992*.

37 When power applies to behaviour

(1) A police officer may exercise a power under section 39 in relation to a person at or near a prescribed place if a police officer reasonably suspects the person's behaviour is or has been-

1. causing anxiety to a person entering, at or leaving the place, reasonably arising in all circumstances; or
2. interfering with trade or business at the place by unnecessarily obstructing, hindering or impeding someone entering, at or leaving the place; or
3. disorderly, indecent, offensive, or threatening to someone entering, at or leaving the place; or
4. disrupting the peaceable and orderly conduct of any event, entertainment or gathering at the place.

(2) Subsection (1) (b) applies to premises used for trade or business only if the occupier of the premises complains about the person's behaviour.

(3) This part also applies to a person in a prescribed place if a police officer reasonably suspects that, because of the person's behaviour, the person is soliciting for prostitution.

(4) For this part, the person's behaviour is a “**relevant act**”.

38 When power applies to a person's presence

A police officer may exercise a power under section 39 in relation to a person at or near a prescribed place if a police officer reasonably suspects the person's presence is or has been-

1. causing anxiety to a person entering, at, or leaving the place, reasonably arising in all circumstances; or
2. interfering with trade or business at the place by unnecessarily obstructing, hindering or impeding someone entering, at or leaving the place; or
3. disrupting the peaceable and orderly conduct of any event, entertainment or gathering or gathering at the place.

(2) Subsection (1) (b) applies to premises used for trade or business only if the occupier of the premises complains about a person's presence.

(3) For this part, the person's presence is a **“relevant act”**.

39 Direction may be given to a person

(1) A police officer may give to a person or group of persons doing a relevant act any direction that is reasonable in the circumstances.

Examples for subsection (1)-

1. If a person sitting in the entrance to a shop is stopping people entering or leaving the shop when it is open for business and the occupier complains, a police officer may give to the person a direction to move away from the entrance.
2. If a group of people have been fighting in a night club car park, a police officer may give the people involved in the fight a direction to leave the premises in opposite directions to separate the aggressors.
3. If a person has approached a primary school child near a school in circumstances that would cause anxiety to a reasonable parent, a police officer may give the person a direction to leave the area near the school.

(2) However, a police officer must not give a direction under subsection (1) that interferes with a person's right of peaceful assembly unless it is reasonably necessary in the interests of-

1. public safety; or
2. public order; or
3. the protection of the rights and freedoms of other persons.

Examples of rights and freedoms for subsection (2)(c)-

1. The rights and freedoms of the public to enjoy the place.
2. The rights of persons to carry on lawful business in or in association with the place.

(3) Without limiting subsection (1), a direction may require a person to do either of the following-

1. leave the prescribed place and not return within a stated reasonable time of not more than 24 hours;
2. move from a particular location for a stated reasonable distance, in a stated direction, and not return or be within the stated distance from the place for a stated reasonable time of not more than 24 hours.

(4) The police officer must tell the person or group of persons the reasons for giving the direction.

40 Proposal for notified area

(1) A government entity or a local government may apply to the Minister for the declaration of a stated area as a notified area.

(2) Before the Governor in Council declares an area to be a notified area, the Minister must ensure any requirements prescribed under a regulation for this section have been complied with.

41 Declaration of notified areas

The Governor in Council may, by regulation, declare a stated area to be a notified area for this Act (<http://www.police.qld.gov.au>, p.p. 45-47).

APPENDIX 3

CONSENT FORM

In signing this document, I am giving my consent to be interviewed by Kevin McNulty. I understand that I will be participating through an interview in a research project focusing on Aboriginal and police relations in Queensland from an Aboriginal perspective. This research forms part of an honours program at Central Queensland University and may provide some guidance in implementing change within the Queensland Police Service regarding their perceived attitudes towards Aboriginal people.

I understand that I will be interviewed at a time and place of convenience to myself. I will be asked to share my personal experiences and views regarding Queensland Police Officers. The interview will take about 10-30 minutes.

I have been informed that even after the interview begins, I can terminate the interview at any point and all field notes relating to me, will be destroyed in my presence.

I understand that my identity will be protected and my name will not be used without my express written permission. I also understand that the information gathered for this research is for the purpose of the aforementioned project only.

I understand that if I wish to withdraw from this research at anytime I can contact Kevin McNulty on (07) 4938 7736.

.....
Date

.....
Participant's signature

.....
Date

.....
Interviewer's Signature