

# POLICE OFFICERS' EXPERIENCE OF INDIGENOUS 'CAPACITY'\*

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## I Introduction

What do the police think they are doing with or to Indigenous Australians?

We decided to ask them. The paper examines police officers' beliefs and perceptions about Indigenous 'self-determination' and 'capacity' and the implications of these concepts for their work in Indigenous communities. Before describing interviews conducted in the Kimberley region of Western Australia in late 2009, we will provide context for the concepts of 'self determination' and 'capacity' by reviewing relevant parts of two major inquiries influential on the way that Western Australia Police ('WAPol') intends to work with Indigenous communities. The first is the Royal Commission into Aboriginal Deaths in Custody, which issued its *National Report* in 1991, and the second the July 2002 report by the Gordon Inquiry.<sup>1</sup> Using our interview material, we are able to present, from the practitioners' points of view, the implications for police work of some of the concepts issuing from these inquiries.

## II The Royal Commission's Policing Recommendations

In 1991 the Royal Commission into Aboriginal Deaths in Custody ('RCIADIC') endorsed the principle of 'self-determination'. Recommendation 188 was:

That Governments negotiate with appropriate Aboriginal organisations and communities to determine guidelines as to the procedures and processes which should be followed to ensure that the self-determination principle is applied in the design and implementation of any policy or program or

the substantial modification of any policy or program which will particularly affect Aboriginal people.<sup>2</sup>

Applying this principle to policing services, recommendation 88 outlined four issues to be considered in negotiating a new congruence between the service that police were performing and the policing services that Aboriginal communities desired. These issues were: whether 'there is sufficient emphasis on community policing'; whether 'there is over-policing or inappropriate policing of Aboriginal people in any city or regional centre or country town'; whether '[t]he policing provided to more remote communities is adequate and appropriate to meet the needs of those communities and, in particular, to meet the needs of women in those communities'; and whether '[t]here is sufficient emphasis on crime prevention and liaison work and training directed to such work.'<sup>3</sup>

The passage in which recommendation 88 occurred did not include a definition of 'community policing' although it is a common term in contemporary policing. Throughout the 1980s, in an attempt to provide the language and concepts to 'demilitarise' and 'professionalise' policing, criminologists and sociologists sought to define the main characteristics of 'community policing'. Skolnick and Bayley's fundamental definition of community policing as 'police-community reciprocity' is useful, explaining that reciprocity 'means that police must genuinely feel, and genuinely communicate a feeling that the public they serve has something to contribute' to policing.<sup>4</sup> Further the 'new professionalism implies that the police serve, learn from and are accountable to the community'.<sup>5</sup> Cunneen has acknowledged that 'community policing' is 'difficult to define'.<sup>6</sup> For Cunneen 'community policing' implies 'greater attention to crime prevention and multi-agency approaches to problem solving, as

well as decentralisation and devolution of power.<sup>7</sup> Thus 'community policing' covers both the first and the fourth issues mentioned in recommendation 88, and some process of liaison, engagement or consultation between 'police' and 'community' is implied. In this way, 'community policing' would seem to be a particular application of what the Royal Commission called 'self-determination'.

How are the other two issues mentioned in recommendation 88 – over-policing and attention to the needs of women in remote Aboriginal communities – related to 'self-determination'? The concept 'over-policing' was prominent both in the campaign for the government to mount a Royal Commission and in the findings of the Royal Commission itself. Cunneen has traced the currency of this concept back to articles written by such legally-trained Aborigines as Pat O'Shane and Paul Coe.<sup>8</sup> Cunneen urged that we take the concept seriously because it 'expresses something simply and directly about the way Aboriginal people experience the criminal justice system'.<sup>9</sup>

However, Cunneen also warned that if 'over-policing' were operationally defined simply in terms of police/population ratios the concept would effectively desensitise policy-makers to the local nuances of police-Aboriginal relationships.<sup>10</sup> He detected this simplification in some of the work of the Royal Commission.<sup>11</sup> His discussion of the concept 'over-policing' thus laid bare a possible tension within Aboriginal and critical criminological discourse: to the extent that 'over-policing' was understood in terms of a statistical ratio, the solutions to 'over-policing' could be presented also in statistical terms; to formulate a norm in this way would be the basis of a new kind of deafness and blindness to local conditions – including to the views and wishes expressed by local Aboriginal people.

It follows that the way we understand and use the concept 'over-policing' will have an impact on the way we consider whether '[t]he policing provided to more remote communities is adequate and appropriate to meet the needs of those communities and, in particular, to meet the needs of women in those communities'.<sup>12</sup> As our close examination of the Royal Commission's 88<sup>th</sup> recommendation shows, the Commissioners were not being so crude as to assume that the quality of policing could be captured in a single concept ('over-policing') statistically understood. Like Cunneen in his 1992 paper, the Commissioners entertained criteria of policing that were qualitative; the words 'adequate and

appropriate' allowed for the possibility that Aboriginal communities might even need and want *more* police and *different* kinds of policing.

The Royal Commission was indeed aware of the possibility that some Aboriginal people would consider themselves to be 'under-policed': 'there is a very widespread perception by Aboriginal women of the indifference of police to acts of violence against them.'<sup>13</sup>

To refer in qualitative terms to policing implies judgment, not just measurement, and the necessity for judgment raises the question of 'whose judgment?' The Royal Commission had an answer to this question, following the principle of 'self determination' enunciated in recommendation 188. Recommendation 214 referred to 'the involvement of Aboriginal communities, organisations and groups in devising appropriate procedures for the sensitive policing of public and private locations where it is known that substantial numbers of Aboriginal people gather or live'.<sup>14</sup> As well, recommendation 215 advocated consultation and negotiation with local Aboriginal organisations: 'Such negotiations must be with representative community organisations, not Aboriginal people selected by Police, and must be frank and open, and with a willingness to discuss issues notwithstanding the absence of formal complaints.'<sup>15</sup> Clearly, for the Commissioners, to improve the quality of policing required attention to two relationships: between the police (at local level and above) and Aborigines, and among Aborigines themselves (to assure that those speaking for them were 'representative').

### III Capacity: A Term of Disputed Meaning

A 2001 coronial inquiry into the death of an Aboriginal teenage girl in the Swan Valley Nyoongah community criticised the WAPol investigation of the death. This triggered the Gordon Inquiry and the July 2002 report. While many other deficiencies in servicing figured in the Gordon Report's account of the genesis of such risks to children – inadequate housing, education and training, employment services, for example – the problem of child security was conceived to include the problem of surveillance. Some of the Gordon Report's recommendations were accordingly directed to extending police and child welfare services to under-serviced regions and to enabling information to be shared between police and child protection workers. The extension of police and child protection services into previously

under-serviced regions of Western Australia was among the Western Australian government's many constructive responses to the 2002 Gordon Inquiry, the practical outcome of which was the implementation of 'Multi-Functional Police Facilities' (MFPFs) in Aboriginal communities in the Kimberley. This brought police officers and child protection officers together in one prominent and accessible building, in several previously under-policed remote regions of the State. The Western Australia Police had conceded in its official response to the Gordon recommendations that policing in remote regions 'is still insufficient to ensure a safe community environment' and that more was needed than 'patrol activities moving through the communities or responding to requests for assistance'.<sup>16</sup> The challenges of better detecting children at risk, and then protecting them, loomed large in the WAPol response to the Gordon Report and appeared to colour the way the WAPol leadership used the term 'capacity'.

'Capacity' has become a central term in public policy directed at Indigenous Australians; yet its operational meaning is far from being settled. One sense of Aboriginal 'capacity' emerged when the WAPol committed to reducing 'the level of [Aborigines'] distrust' and to encouraging Aborigines to report offences, including misconduct by police themselves. The WAPol referred to this as 'the capacity or inability for Aboriginal people to make complaints'.<sup>17</sup> However, the WAPol response to other recommendations conveyed ambivalence in the thinking about the more formal, organised 'capacities' of Aboriginal communities. For example, when the Gordon Inquiry referred favourably in recommendation 48 to Memoranda of Understanding ('MOUs') with Aboriginal communities, the WAPol requested that 'additional consideration be given to MOUs ... due to considerations concerning the total communities [sic] understanding of the MOUs and appropriate identified community authorities' – hinting that it entertained doubts that MOUs were understood and supported by all who were nominally committed to them.<sup>18</sup> WAPol argued that a MOU covering 'access and service delivery to communities creates a precedent, which has the potential to further empower certain people in the community whilst restricting access to support and justice to others'. With some badly led communities – such as the Swan Valley Nyoongah Community – the WAPol did not wish to have a MOU at all, arguing that 'the people in positions of power are alleged to be or are implicated in abuses' and so can 'obscure access to investigation'.<sup>19</sup>

The WAPol voiced further misgivings about received meanings of 'capacity' in response to Gordon's recommendation 52 in which Gordon endorsed 'capacity building in Aboriginal Communities' and supported 'programs ... which foster capacity building.' This recommendation elicited one of the WAPol's longer and more carefully argued responses:

It has been accepted that in order for Aboriginal communities to become sustainable and reach their full capabilities, the basics for their survival must first exist. These include food, water, shelter and security. People need to feel secure and safe in their environment in order to achieve their full potential. This has been borne out recently by calls from several of the larger remote Aboriginal communities for a permanent policing presence. However, not only is it essential for community members to attain a level of security, but it has also become a more pressing concern for support agency staff in recent times. Health and Education workers have left Aboriginal communities following threats to their safety. This has meant that these essential services have become unavailable or, at least, less accessible in the immediate to short term. The provision of more appropriate policing services will enable a level of security to exist which, in turn, will help facilitate healthy community growth and development. Importantly, if these communities are to be brought to the threshold of sustainability, it will be necessary for not only the Police Service, but also Government generally, to ensure that the basic framework of services are in place. *For it is through the convergence of these basic services with broader capacity building strategies that any real shift towards sustainability will be achieved.* Given the current focus on sustainability and capacity building across government, it is recommended that *a consistent and appropriate interpretation of these terms be determined and applied within the Government framework.*<sup>20</sup>

The WAPol, in this passage, treated Aboriginal 'capacity' as a dependent variable, its existence contingent on various actions that the State must take as provider of other essential services - in particular policing services. The WAPol also recognised – perceptively, we would suggest – that 'capacity' has become a policy keyword whose operational meanings are in need of clarification.

This tendency for the WAPol response to Gordon to refer to government action when referring to the building of Aboriginal community capacity was evident also when

Gordon's mention of 'capacity' triggered WAPol to extol inter-agency collaboration. The WAPol expressed enthusiasm for more collaboration, including information sharing, between State agencies, particularly between agencies relevant to child protection such as the WA Department for Child Protection and the WA Department of Health. When Gordon's recommendation 27 mentioned 'building capacities and strengths of individuals, families and communities', the WAPol response referred to relationships among agencies of the State ('a concerted collaborative approach with all Agencies') rather than to the building of relationships between the State and Aboriginal groups and organisations.<sup>21</sup>

Undoubtedly, the problems of family violence and child security are exacerbated by weaknesses in the provision of State services and in State surveillance; so it is not surprising that when Gordon referred to 'capacity-building', the WAPol response dwelled on three factors affecting surveillance: Aborigines' willingness to report breaches or threats to community safety; the security of State employees servicing remote communities; and information sharing between State agencies. While at times talking around the problem of Aboriginal *political* capacity, the WAPol saw the potential value of negotiating with an Aboriginal collective agent of some kind. The WAPol professed 'a common sense approach that supports whatever successful local mechanism is in place and which will result in the most effective and efficient outcome. In this sense it is the policy of the Police Service to support local initiatives and to be guided by the local demands.'<sup>22</sup>

Our examination of the 'high level' of Western Australian police policy thus points to both a tendency to treat Aboriginal capacity as a contingent effect of public agency actions and a wariness about assuming the integrity and effectiveness of community representative bodies. What did the men and women working on the ground think?

#### **IV The Interviews with Police Officers**

We conducted interviews with 23 police working across 10 communities and towns in the Kimberley region of Western Australia in late 2009; our aim was to understand how the concepts discussed in these significant inquiries are experienced and applied. Included in the sample were officers at both managerial and 'front-line' level. Ethics permission was obtained from Western Australia Police to conduct interviews with officers working in

remote Indigenous communities and their managers, and informed consent was obtained from each individual interviewed. No individual who was approached declined to be interviewed. Interviewees were enthusiastic, and the interviews lasted 35–90 minutes. In only one police office did the officer in charge not allow our interviews. We engaged an independent commercial transcription company, and we drew themes from the transcripts; the material used in this paper is verbatim from the transcripts.

Our semi-structured interview included sections on: officer's role; their Indigenous clients; policies and practices; the effect of large scale government programs on their work; and inter-agency work. Questions and prompts sought observations on: prescribed agency 'outcome measures' with reference to service delivery in remote areas; government inter-agency work; the indigenous client, 'culture' and adjustments to practice; problems in communities and solutions provided by services; discussion of agency's policy approach; and reflections on role and 'purpose'. The interview prompts reflected the aims of the study while encouraging free talk, and we encouraged interviewees fully to explore the themes about which they wished to speak.

Our choice of methodology and participants was based on Lipsky's perception that the 'the decisions of street level bureaucrats, the routines they establish, and the devices they invent to cope with uncertainties and work pressures, effectively become the public policies they carry out.'<sup>23</sup> The character of any service, initiative or policy depends partly on how it is implemented by the individual service provider. Service providers interact daily with community members, and their perspectives and practices are informed and potentially adapted and shaped by day-to-day experiences. In the present sample, police officers are the mediators between police policy and the work that is actually performed in remote Indigenous communities.

Our approach can be situated within a small number of studies that have examined the self-reported experiences of service providers working with remote Australian Indigenous communities. For example, Finlayson interviewed non-Indigenous service providers in a remote northern Queensland Aboriginal Community. Culturally estranged from Aboriginal service users, they saw Aborigines as incorrigibly dependent. Finlayson made recommendations about recruitment, training and performance measurement.<sup>24</sup> In a participant-observation study Lea has explored the

culture of a Northern Territory bureaucracy whose officials, while responsible for improving Indigenous health, are constantly aware of their failure. In order to keep going, she found, officials engaged in work practices that collectively produced and validated certain ways of characterising themselves and the Aboriginal service users.<sup>25</sup>

That their own work generates ways for police to understand themselves and their clients identifies the topic of our research: police working culture. Cunneen and McDonald pointed to police 'ways of seeing' as a crucial topic when they evaluated, in 1997, government responses to the recommendations of the Royal Commission into Aboriginal Deaths in Custody. Cunneen and McDonald spelled out the change in police ways of seeing that acceptance of the recommendations had implied.

For many police at the local level [the development of community policing which involves Aboriginal and Torres Strait Islander people] involves a transformation from seeing Aboriginal and Torres Strait Islander people as a problem to be policed, to seeing Aboriginal and Torres Strait Islander people as important and valued members of the broader society who have a role and a desire to formulate effective law and order policies for their communities.<sup>26</sup>

At the time, they expressed disappointment in the slow pace of this change in police outlook.

There has been inadequate regard to a key recommendation on the need for negotiation and self-determination in relation to the design and delivery of services. A failure to comprehend the centrality of this recommendation [R188] has negatively impacted on the implementation of a range of other recommendations.<sup>27</sup>

The centrality of 'Aboriginal capacity' to contemporary policing policy should be obvious from our introductory remarks about the recommendations of the RCIADIC and the Western Australia Police response to the Gordon Inquiry. Drawing on interviews with twenty-three police officers in the Kimberley conducted in 2009, we present police understandings of 'Aboriginal capacity'. For the shift in police outlook – hopefully evoked by Cunneen and McDonald in 1997 – to occur, the practical experience of police must generate a conviction that Aboriginal people have political capacity and that the Aboriginal exercise of that capacity is congruent with and complementary to mandated objectives

of police work. In analysing our interview data, we inquire into the possibility and difficulties of incorporating the concepts of 'self-determination' and 'Indigenous capacity' within policing practice – that is, the possibility of policing in which Aboriginal communities are taken seriously as the interlocutors of police in formulating and executing 'effective law and order policies for their communities'. To the extent that police were not *experiencing for themselves* the helpful exercise of Aboriginal political capacity, then neither training in 'cultural respect' nor directives from superior officers will establish 'Aboriginal capacity' as a practical concept.

## V What Police Told Us

In their interviews, Kimberley police pointed to much that is positive and improving in Aboriginal communities, but also to the factors inhibiting Aboriginal capacity to engage fully with policing services and to be taken seriously as partners in formulating and executing effective law and order policies for their communities. Three kinds of inhibitors featured in what they said: the accessibility of alcohol, dependence on service providers and particular aspects of Aboriginal political culture itself.

### A Accessibility of Alcohol as Inhibitor

One interviewee said:

I have a huge amount of optimism about their future. But we really need to be looking at the alcohol issue. That is central to the whole thing. And we can run around and treat all the symptoms we want about support services and having more DCP [Department for Child Protection] and having all this. It's ridiculous. We need to treat the cause not the symptoms. (Interviewee 18)

Another said:

you need someone in the community that's going to lead them and show them how to do it ... if you get rid of the alcohol problem I think that everything else will flow on from that. (24)

In the context of discussing changes in the approach of the police to working within Indigenous communities, a further officer commented on the restrictions recently applied to the sale and availability of alcohol in the Kimberley; in his view this had brought about radical change.



As I said to you, I was a constable 25 years ago in [name of community] where I saw a high level of social dysfunction and intoxication and violence amongst the Indigenous population. I suppose the only thing I can say now, coming back to the Kimberley 25 years later, is in many ways what's changed. In my view we still see unacceptably high levels of violence, and to me it's all alcohol-fuelled. Now the only thing that has really changed my perspective is the introduction of liquor restrictions into the Fitzroy Valley and now Halls Creek. They have absolutely altered my perspective on how we should be managing these communities ... But there's been remarkable turnaround in those communities with liquor restrictions compared to everywhere else. (1)

## B Dependency as Inhibitor

Interviewees obtained a great deal of satisfaction from fully participating in the community and mixing with their communities in a friendly, informal way.

It's just living here within the community and being part of the community. Then being accepted by the community by your interaction. Don't get me wrong. If I came to work, all I did was arrest people, come to the office, did my paperwork and went home, I wouldn't be accepted. But because I'm not afraid to go out and walk around off duty with my dogs and involve myself with the community, that respect then works twofold. Then when I go to my job, whether they're drunk or they're sober, I'm accepted. (12)

... you can't just come up here and do your eight hours a day policing and then go home, 'cause it just doesn't work. You've got to be part of that community, whether it be sporting or some other community groups. You've got to get in and mix. (21)

Others saw initiating community sport and social activities as a central part of their role in remote communities; however, when being part of the community includes doing things for the locals, there is a perceived danger that community members will take police efforts for granted and become dependent. As one interviewee recalled of his activities with the children in the community:

historically it's been the police turn up, set everything up, play the music that they want, they walk out the door, we clean up and we do everything there. So it was a case of I'll help you and do everything I can but I'm not going to

do everything from picking up the papers to plugging in the leads to playing the music, which I've done a hundred times for them. My little bit of trying to say well you can actually do it yourself with some guidance, and they pulled it off perfectly. The mentality there was that you're the government, you're getting paid, you do it. (28)

Another spoke of her affection for the children in one community, and then said:

but if I were to give them, because I feel sorry for them, you know I will give them a packet of crackers one day and the following day they come to the fence and they won't be grateful for what you gave them yesterday they are just annoyed that you don't have any more for them today. I think we keep giving them everything in services and us going out there and things that we do for them as well as their free health so there is no motivation for that generation to like you say, to have any level of self determination. (29)

New approaches to policing may sometimes experiment with models of 'community' responsiveness and involvement. The results of such an exercise disappointed one interviewee.

We had a march against domestic violence one year, and that was pretty good. It had just about the whole community. The kids made banners at the school, and we marched from the big crop down to the footy oval. But we did get community involvement. But when like you say, you try and get community, to try and put things together, it's hard for them. *Facilitator: Right. Why do you think that is?* I don't know, eh, I really don't know. You might get the odd one or two, but it's just hard to try and get them actually involved with a lot of the things that are happening. We had a family fun day out at the oval again, you know, same as the domestic violence. That day was huge, but just only about three weeks ago we had that family fun day, and you might get all the kids down there, but you don't hardly see the parents. *Facilitator: Really?* Mmm. Parents will say, that's kids' thing, because it's alcohol and drug-free down there. No alcohol allowed down there. You'll see some families there with their kids, which is good, but not the ones that we spoke about earlier, you know, you see their kids down there, but the parents are up on the grass lawn or back home, gambling or doing something. *Facilitator: Do you find it frustrating that families don't get more involved?* I do, I do find it. (30)

The problem of how to encourage participation while 'modelling' how to set up sports or recreational activities is a significant issue for police working with Indigenous communities. To sympathise with the underpinning ideas of self-determination and capacity building does not answer for police the question of how much they need to do to build up the involvement of residents: 'the perception from some community people is that you're the government, why don't you do things like that, you're getting paid, so it's you that should be doing that.' (28)

A wider context for this perception of dependency may be the concept '*welfare dependency*', although only one of our interviewees actually used this phrase.

There needs to be an incentive to work, and if we're simply going to start, keep throwing money at them and say: 'Here's your money, here's your money, here's your money.' They don't need to work. They get enough money coming in that they don't need to work. So they're becoming too welfare-dependent and they're too used to people doing everything for them. And every time they want something, they just ask for it and they get it, without actually getting off their butts and doing the work themselves. (31)

### **C Aspects of Aboriginal Political Culture as Inhibitor**

Some see tendencies within Aboriginal culture that inhibit their capacity to represent themselves to outsiders. Several interviewees mentioned the notion of a community factionalised by family solidarities as an inhibitor to implementing the Gordon Recommendations.

But the issue we have here in the community is we've got five family groups. So depending on what family group you're from, you may not get on with another family group. It's not so cut and fine lines drawn in the sand as such as that, but to a degree it can be that where well, this group doesn't get on with that group. So even though [name] might be a member of group four, because group two won't speak to her, even though she's the role of domestic violence liaison, well I'm not going to go and speak to her because she's from such and such a family mob. (12)

Another interviewee referred to the vulnerability of community leaders to criticism because of the politics of family patronage.

But my perception of some of those communities, if someone from that community is operating that level, there's their own politics in their own pecking order as well. There are particular family members in control of money and if they're perceived to be perhaps assisting their own family group because they're maintaining the road near their premises more so than the one on the other side of the community and it's perceived that that person's doing it not right, then there's automatic tension and that becomes, from our perspective, family feuding and it becomes a bit of a Ben Hur. (28)

A lot of the different communities have got different language groups, so I try and get some idea on who those language groups are, who are the main ones and who aren't, that sort of thing. But from the policing side of things, just be careful, just watch your back and – yeah, it sometimes can be fairly daunting, fairly difficult. (33)

Internal politics were also seen as an inhibitor in implementing the Recommendations, for example, the setting up of the Multi-Functional Police Facilities in one community:

We sat down with them and we said – it was a little bit icy because I don't suppose they particularly knew what we were there for. We sat down with them and we said look, we're here to talk about putting a police complex in [name of town]. And you could almost see the weight off of these women's shoulders, whew, melt away. Now unfortunately because of internal politics with one group who were talking with – this power base strength that unfortunately happens within indigenous environments, whether it be family based or agency based or simply fighting against one another. It's taken over 2 years to get to a sign-off. Now those people have been waiting for a police complex. We're ready to go. We're ready to put people in there but we're still waiting for sign-off by these groups. That is extremely frustrating. Clearly these communities want it but there are others that continually throw up barriers to keep police out ... (6)

### **VI The Individual Basis of Aboriginal 'Capacity'**

Notwithstanding the currency of cultural models that imply political incapacity, most of our interviewees had experienced the political capacities of Aboriginal communities. This echoes the point made by WAPol in their

response to recommendation 70 of the Gordon Inquiry that police would be flexible in their engagement and would support and use 'whatever successful local mechanism is in place and which will result in the most effective and efficient outcome'.<sup>28</sup>

One interviewee pointed out the value of police staff specifically deployed to engage with the community:

They [the Aboriginal Police Liaison Officer positions being phased out by WAPol] who haven't transitioned, they're allowed to stay in their role until they retire or resign. So when I got here they were used more for enforcement sort of purposes. And the community has indicated quite strongly that they like the community intervention and liaison community policing aspects of what [names of APLOs] did from time to time and they wanted that strengthened. So effectively they have now been fully deployed into liaison, intervention and community policing roles. And that was a fairly easy fix, you know, that was in response to what the community wanted. (25)

Asked how the police had ascertained this community's wishes, the interviewee replied 'just talking':

I think in the Indigenous community if you bring everyone together in one big forum and sit down there's a lot of, until people get to know you, a lot of reluctance with opening up and discussing issues that are concerning them. So my view is that's a pointless exercise. If you go to the individual family groups, you know, whether it's the key leaders or whether it's informal leaders like some of the young bucks in amongst these groups, they'll tell you what they think once they get to know you once they decide that you're okay. (25)

Having an 'educated person' in authority made a difference, according to one interviewee:

these communities rely on either funding or some sort of body to be providing assistance and there needs to be people appropriately qualified to manage that. Your studies, no doubt, will reveal that the more successful Aboriginal communities are the ones that are being fairly well managed particularly with assistance of, I guess, the educated person. This is only what I've seen, it's only in a small area, but the ones that I've seen that don't have that sort of, I guess, educational assistance find it very difficult and come unstuck in more ways than one. (28)

Another interviewee recalled his blunt words of advice to a person who, in the interviewee's opinion, could be a leader.

One woman I actually said to her that she was a vindictive bitch and I said – she looked at me and I said the thing is that every time you open your mouth it's poison; if you shut your mouth and listen to the people around you and then put forward a perspective on a balance you could be a very strong community leader because you are a powerful, confident person. But that's the issue is that they get [lost]. Every time she opened her trap people turned away and don't listen and if she shuts up they go back to their business. So if you can get people with that passion and that strength but with a bit more balance to their view of life they can achieve a lot. (6)

In discussing the governance structures with whom the police could work, other interviewees emphasised the Council.

I don't know of any community where that council is not the central point that when they're consulting with particular issues. It could be the wearing of seatbelt issues, it could be going to school issues. Often it's all into that council first ... The council virtually drives everything that happens in that community. If the council is not on board through – you know, if you can't negotiate their cooperation well it can really affect things. (15)

One interviewee explained how he was building up 'rapport' with the council and Chief Executive Officer ('CEO') of the community to which he had recently been transferred.

Yeah, just with regular phone calls and meetings with the CEO to start with, and then being invited to go along to the council meeting and give them an idea of your agenda in the community and what you could for them and what you expected from the council. But mostly sort of just try to cut down some of those barriers. (33)

Another recalled working effectively with a Council by helping it to use its by-law powers to expel trouble-makers.

Working closely with the council, developing the bylaws that if they weren't a traditional [language group] person, the council had the authority to remove them from the community. So anyone that was constantly belting up his missus or constantly breaching the by-laws by bringing alcohol into the community and all that, we'd approach the



council and say look this person's been charged so many times over the last couple of months. We've got statements from people that he's bringing alcohol into the community. He's not a local person. If you want your community to stay sober and you want your people turning up to work in the morning, this bloke needs to go. Yep, no worries. The CEO will call a council meeting. This is the information that the police have got, blah blah blah. And someone will say oh yeah he was living next door to me, he kept us awake all last night with his parties. So they just draft a letter, the council signs it. The CEO calls me up, [name of interviewee], there's the letter. Go around to see him, mate you've got a couple of hours to get out of the community. If you come back you'll be charged with trespassing. (20)

As this interviewee elaborated his story, however, it became clear that his real ally had been a 'strong CEO'.

The previous CEO that was at [community name] three years ago was just dominated by the council. The council just said to him we're doing this, we're doing that. Yep, alright. And it was just mayhem and anarchy in the town. They basically did what they wanted. They've got a new strong CEO now who's come over from the NT. And he's actually said no, you can't do this, you can't do that. (20)

For some, local political capacity varied with the quality of the CEO:

and I have seen it happen in communities, where they become stagnated because of the pressures or the people that are the governors in your community as such, you know, your council and also your administration people, who your CEO is, if they have got good positive attitudes and they are involved in the community and getting people moving. Then you can have someone who comes and stagnates the system and all of a sudden they go back ten years and then they have got to turn around and actually try and move forward again. (11)

In short, a theme emerging from our interviews is the contingent variability of Aboriginal authority – the sheer chanciness, in police experience, of finding an effective individual and/or council in one's field of operations. One of the ways that police have learned to think about Aboriginal political capacity is that it rests on the shoulders of effective individuals. The supply of such effective individuals is not assured; it is subject to variation that is - if not completely

random - beyond police prediction and control. In this experienced notion of Aboriginal capacity, the key concept is that such capacity occurs randomly; it is weakly determined, subject to chance variation and may not yet reside in the community members themselves, as the accounts of the role of CEOs attest.

## VII The Capacity of Indigenous Women

In contrast to this individualist and indeterminate way of thinking about the possibility of Aboriginal capacity, there was among our interviewees an emergent experience of women's capacity that could be the basis of a more structural or sociological way of thinking about 'capacity'. Many of our interviewees were becoming aware of the awakening of female power. The instance informing this view was the prominence of women in the Fitzroy Futures Forum and in the local political agitation to ban the sale of take-away alcohol. Our interviewees were generally in favour of the liquor restrictions – some vehemently so – and in praising the local agitators they saluted strong women. Indeed, one interviewee admitted that until the mobilisation over the Fitzroy liquor restrictions, the latent political power of women had not been evident to him.

I didn't know them from a bar of soap; I knew they existed in that they were a support group working within Fitzroy Crossing – who stood up and said, 'We've had enough of the grog'. And they took it and throttled it, both politically and vocally, and got government to sit up and look and say, Righto, we hear what you're saying, we'll put a liquor restriction into Fitzroy Crossing. And the consequence of that has been – my perception – the healing of that community literally. So the lesson for me was policies and inquiries and procedures that come out of centrally-based, both Perth and here, are absolutely worth diddlyquat if you're not aware of the fact that an obscure group of people within your own backyard have the ability to stand up and politically influence Parliament House in Perth. So I suppose that's the irony of what I'm saying. I'm so important sitting here managing volume crime; the reality was they've got a damn site more influence and impact than I could ever hope to have. So it was a very humbling lesson for me, to think, 'Well, there you go'. (5)

To the extent that the police understood that the success of their work in remote communities, after the Gordon Report, rested on improved surveillance of family violence and child

predation, they were attuned to the potential of women to effect change.

For us to help support with domestic violence we have to show that we're prepared to stand on the front foot. Now if an Aboriginal woman came in with her head split open and was full of booze, many a times it was come back tomorrow and see us. Now that's not an approach that I promote or I expect my officers to take. Whilst she is drunk she is still capable of being assaulted and brutalised by even another drunken person. Whilst we might go to all the effort and take a statement off her there and then and never see her again, at the very least we've got a complaint at the time of the offence, we provide medical support. But what that does I think is bit-by-bit-by-bit is build a platform where there is some confidence developing that we are prepared to stand up and support them. That then strengthens their resolve to then come and report those matters to us. (6)

One interviewee told how it had taken him 'about six months to gain the trust of the women':

The women were being assaulted basically and nothing was happening. So I said look, if you're assaulted, you come and see me, I will do something. Then when I started arresting and charging a few of the people for assaulting their partners, word soon got around to the community that if you do get assaulted, go and see this bloke because he will do something. I was of the philosophy that you can't just go in and say you've got to do this, this and this. Actions speak a lot louder than words. So actually go in there, follow up on what you've said. Gain their trust by saying yes this is what I'm going to do, then you do it. (20)

Another interviewee from a different community warned that it could take time for women to lose their fear.

But domestic violence is a sort of thing that is probably widely accepted still and I think a lot of that goes unreported, perhaps not so much the children but ... (*Facilitator: Do you think people are more vigilant generally?*) I think they are on notice now in terms of the children and what is appropriate and what is not. I think certainly there are women out there who are petrified of their partners. (29)

One officer reported what he saw as a change in 'the older women in the community'

because I think they may have been through knowing they have got that little bit of security in the community. They can come to someone, you know, especially if they have had family violence issues in the past and especially if you respond in the right way to it that if they ring or make contact you will go and help sort the problem out whereas before they have had to do it in family and a lot of things get shoved under the carpet because of those issues. So there are the more mature women who have had problems. (11)

An interviewee told a story of cooperation with women in the community where he was posted.

Some of the women there were getting annoyed with the amount of grog coming into their houses and the anti-social behaviour from the relatives coming to the door with grog and then fighting. They approached the police and they were asked to try and do something to help them try and fight what was going on. We said well, what about a sign – you know, as an example – and what would you like to put on the sign? So as a result of a number of discussions – and that was through the women's group and through DCP – we came up with this slogan – 'no grog, no humbug, no guns or the police will be called' – and our phone number underneath. We got a large sign, we had it cemented into the ground and they selected where they wanted to put it. And as well as that we got these A4 stickers, the same signage and slogan, and it had a fish with a beer can and that with a cross in the back of it. And they were actually stickered to the doors of a number of houses in the [name] community. So that was a strategy, I suppose, where we reduced some grog and anti-social behaviour happening, through the co-operation of the women themselves. (33)

What effect does the police work with women have on crime statistics and the incidence of crime? One officer talked about statistical reports of crime compared with more 'qualitative' measures of how police work is assessed by the community.

Yeah, I mean obviously, predominantly it's the corporate measurements that are used, and they're reported crimes, the clearance rate for those reported crimes, the types of crimes that are being reported. They're the measurables that we use on a day-to-day basis. They're obviously corporately measured. I think that when you actually live in the communities there's feedback that you get from the community that you use to measure your performance in particular, that obviously there's no real way of measuring,

and it's just how you're accepted by the community, how they respond to you when you're attending jobs. So they're not really measurables but they're pretty important when you're working and living in the communities. (16)

Another interviewee (33) also pointed to an often-reported artefact of crime reporting: in statistical reports of domestic violence, as victims of crime develop trust in police services they are more likely to report to police in the belief that something will be done. In the case of the Indigenous communities where police have a permanent presence there is evidence from our interviews that women are less fearful of reporting violence and that the officers will respond - as our interviewee (above, #20) described.

The rise in this particular reported crime featured in the recent evaluations of the impact of restriction on the sale and availability of liquor at Fitzroy Crossing. Since 2 October 2007 the WA Director of Liquor Licensing has prohibited the take-away purchase of liquor (above a specified strength) in Fitzroy Crossing. The Director has also required that the impact of this restriction on health and well-being be measured. Researchers at the University of Notre Dame have presented impact reports in February 2008, May 2008, March 2009 and December 2010. The December 2010 report said that:

When comparing the period of October 2006 to September 2007 (pre-restriction) with October 2007 to September 2008 (period 1 post-restriction) and October 2008 to September 2009 (period 2 post-restriction): There was a 21% increase in reported alcohol related DV incidents during period 1 post-restrictions (73 incidents pre-restriction and 93 incidents period 1 post-restriction). There was a further 37% increase in reported alcohol related DV during period 2 post-restriction when comparing to period 1 post-restriction (and 51% increase when compared to the 12 month period pre-restriction).<sup>29</sup>

The authors commented:

Police and other local service providers have attributed the increase in reported DV cases and reported offences to a number of circumstances. Services are finding that with the higher levels of sobriety within the community, people are becoming less tolerant of domestic violence and other incidents. They are now more prepared to make a report. Community members who would previously not access

services, including police, are now doing so. ... Police also believe that the current level of reporting is a more accurate reflection of the extent of the problem within the community than the under-reporting of offences that occurred prior to the restriction.<sup>30</sup>

This evaluation echoes the views of one of our interviewees.

But I think by providing that support [to the women of Fitzroy Crossing] which is basically just doing our job, I think that encourages people to gather strength and stand up. Now Fitzroy Crossing with liquor restrictions in town, people are expecting to see a big downturn in domestic violence. Now there was. There was a huge downturn. All of a sudden there's this increase. What brought about that increase? Sober people were seeing other people being hit. More sober people were prepared to stand up and support the person being hit. The person being hit was sober so was able to report it. So there was - even though there may have been a balancing or an evening out of the amount of offences of domestic violence and that, we were then able to - the clearance rate I think has been 98 per cent. So we get a report and lock the person up. (6)

That is, the apparent calming effect of the liquor control allows the community to become less tolerant of the violence that still occurs, and the community find police more accessible and responsive; police and community members work together more rationally to deal with reports of crime.

As one interviewee graphically described:

And we need to allow these people to get up off their knees and to stop poisoning them, so that they can have a look around. And you feel the town just, phew, has a ... breathes a relief when the grog's turned off. (18)

Recommendation 88 of the RCIADIC was that 'the policing provided to more remote communities is adequate and appropriate to meet the needs of those communities and, in particular, to meet the needs of women in those communities'.<sup>31</sup> It would appear that through a combination of police policy, changed police practice and the greater political capacity of women - expressed in both their collective and their individual actions - the needs of women in remote communities are being met to a far greater degree than they were.

## VIII Conclusion

The Kimberley police who spoke to us in 2009 knew that their deployment was an historic extension of state capacity into remote Aboriginal Australia. As one of them, typically, put it,

I think it came out of the Gordon Inquiry that one of the recommendations was to have police there full time and I think a lot of that came down to developing a rapport with them. You see a lot of suicide and sexual abuse of children as main issues and a lot of the problems that they had at the time was an inability to disclose that to anybody so I think they wanted police there permanently to develop some sort of rapport with the people rather than just have people fly in. I think a lot of things went unreported. (29)

We argue that this novel deployment is contributing to fulfilling the vision expressed in recommendations 88 and 188 of the Royal Commission into Aboriginal Deaths in Custody.

In 1997, Cunneen and McDonald had concluded that 'police culture' was still an obstacle to the realisation of the potential of those recommendations in 'community policing'. The dreadful events in one Nyoongah camp and the governmental self-scrutiny that they triggered seem to have promoted the developments in policing for which Cunneen and McDonald hoped.

We began by tracing a lineage for the Gordon Inquiry concept 'Aboriginal capacity'. The RCIADIC, by endorsing and sketching an operational definition of the concept 'self-determination', created a conceptual space for this succeeding policy keyword 'capacity'. However, as we pointed out, the operational meaning of Aboriginal 'capacity' for police has not settled and unambiguous: the WAPol response to the 2002 Gordon inquiry included some articulate probing of possible meanings – some with more appeal than others, from the WAPol point of view. Having provisionally endorsed some notions of Aboriginal capacity that were inflected towards the ideal of improved 'surveillance', the WAPol and other agencies then deployed personnel more intensively in regions where surveillance had been weak. Our paper has been animated by the question of whether – and if so, in what terms – the agents of that new surveillance were actually experiencing Aboriginal 'capacity'. To the extent that police were not *experiencing for themselves* the helpful exercise

of Aboriginal capacity, then neither training in 'cultural respect' nor directives from superior officers would establish 'Aboriginal capacity' as a practical concept.

What determines the police experience of 'capacity'? As we have shown through our interviews, there were several different kinds of experience available to state employees deployed in locations previously without permanent police presence, including: the weakness or absence of 'capacity', the near random occurrence of 'capacity' (contingent on the distribution of effective individuals in their field of operational responsibility), and the emergence of an articulate constituency of women. In their narration of this third experience we can discern in our interviewees a non-random explanatory model of the occurrence of female-led capacity: it is said to arise at least partly *from the new ways that police do their work*, their new or intensified commitment to hearing women and acting on what they say. This commitment at the 'street' level has been happily paralleled at the level of State policy-making in the way that the Fitzroy Futures Forum – in which Aboriginal women have been prominent – has gained sufficient influence in Perth to effect a change in the regulation of liquor retailing in parts of the Kimberley. Thus, through a combination of four interlocking elements – changed police practices, community agitation around liquor retailing, self-interested behaviour by bashed women and new developments in liquor licensing policy – a new model of Aboriginal capacity has begun to emerge, credibly, in the minds of those street-level state officials whose working convictions form so large a part of public policy. The lasting impression from the interviews was that service providers were fully engaged with communities, intellectually stimulated by the challenges presented and seeking creative and 'culturally sensitive' ways to manage complex (and often 'heartbreaking') human situations. There was also a clear impression from the interviews that community members were seen not as passive recipients of services but rather as active 'consumers' or 'clients'. There is reason to think that this post-Gordon deployment is changing police culture by giving police concrete experience of the phenomenon named in policy documents as 'Aboriginal capacity'.

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