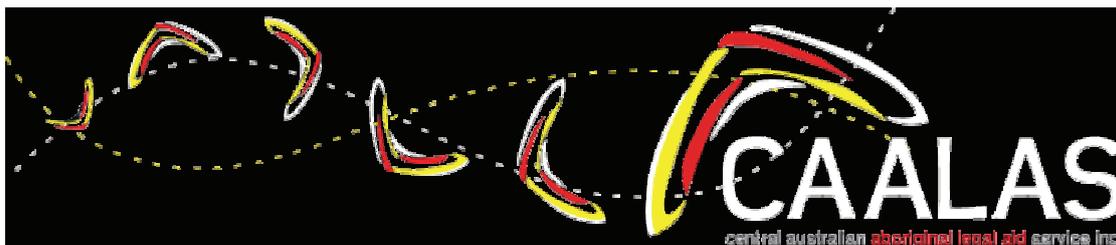

**Aboriginal Communities and the Police's Taskforce
Themis: Case studies in remote Aboriginal community
policing in the Northern Territory**

James Pilkington
October 2009



NAAJA North Australian Aboriginal Justice Agency



This research was funded under a grant from the Australian Government.

Any views expressed in this report are not necessarily those of NAAJA or CAALAS staff or board members or the Australian Government.

North Australian Aboriginal Justice Agency

www.naaja.org.au

Central Australian Aboriginal Legal Aid Services

www.caalas.com.au

Inquiries to:

Advocacy Manager

North Australian Aboriginal Justice Agency

1 Gardiner St

GPO Box 1064

Darwin, NT 0801

Phone: 08 8982 5100

Fax: 08 8942 9619

Email: mail@naaja.org.au

Researcher contact:

James Pilkington

jpilkington2002@yahoo.com

Acknowledgements

Thanks to the following people who provided research assistance and community facilitation for the project: Russell Bray, Graham Campbell, Jessica de Campo, Maxine Carlton, Louise Cavanagh, Pam Corbett, Danial Kelly, Roy Larry, Elizabeth McFarlane, Mara Murungun, Natasha Patana and Della Pearce.

Thanks also to the following people who provided advice, support and direction to the project: Simone Ah Mat, Priscilla Collins, Megan Davis, Norman George, Yingiya Guyula, Wayne Harris, Julian Johnson, Yikaki Maymuru, Joel McLennan, Noel Morris, Anne-Marie Murphy, Mark O'Reilly, Vernon Patullo, Peter Pohlner, Hannah Roe, Derek Schild, Bec Sharkey, Jared Sharp, Lorraine Synoch, Helen Wodak and Rranytjing Wunungmurra.

Thanks to all participants who gave their time and stories generously. Traditional Owners of Australia are always acknowledged. Australia is Aboriginal Land.

CONTENTS

PLAIN ENGLISH SUMMARY	5
EXECUTIVE SUMMARY	8
RECOMMENDATIONS	14
For Police	14
For governments, shires and Aboriginal organisations	17
LIST OF ACRONYMS	20
INTRODUCTION	21
Background	21
Taskforce Themis	24
Method	27
Participation	29
PART 1: RESULTS OF THE RESEARCH ON ABORIGINAL COMMUNITIES AND TASKFORCE THEMIS	32
SUMMARY OF THE RESEARCH FINDINGS	33
CHANGES IN CRIME	36
Key factors in crime reduction	37
Underpolicing	39
Culturally appropriate policing and trust	39
Community approval of police presence and work	43
Court Volumes	51
COMPLAINTS AND LAW	52
Police entry into houses and yards, including searching houses	52
Entry to ceremony/sacred areas by police	57
Taser and Pepper Spray Use	59
Problems with contacting police	66
Lack of communication – police activity	67
Community Law and Justice Groups	69
PART 2: COMMUNITY CASE STUDIES	73
Community A	79
Community B	84
Community C	87
Community D	91
Community E	95
Community F	101
Community G	104
Community H	108
Community I	114
Community J	117
Community K	121
Community L	126
Community M	129
Community N	134
PART 3: DISCUSSION ON THE NATURE OF REMOTE COMMUNITY POLICING IN THE NORTHERN TERRITORY	138
Summary	139
UNDERSTANDING POLICE PRACTICE	140

Key Concepts.....	143
Redefining appropriate policing	147
UNDERSTANDING ABORIGINAL ENGAGEMENT WITH POLICE	153
Why Aboriginal people value the police	153
Factional Capture.....	155
Multiple avenues for problem resolution.....	157
PART 4: THE 'OVERDETERMINATION' OF ABORIGINAL OFFENDING: THE EXAMPLES OF ALCOHOL AND TRAFFIC OFFENCES	169
Introduction	170
ALCOHOL	170
Changes in drinking behaviours	180
Responsible drinking	184
MOTOR VEHICLES AND CRIMINALISATION.....	185
The pervasiveness of offending on Traffic Act-related matters	185
The 'overdetermination' of traffic offences	186
The Police Dilemma.....	189
SOURCES	191
APPENDICES	198
Appendix A: Survey 1	199
Appendix B: Survey 2	

PLAIN ENGLISH SUMMARY

In the Intervention, the government built 18 new police stations in Aboriginal communities in the Northern Territory. They called this 'Taskforce Themis'.

Aboriginal legal aid went to 14 of these communities and asked people about their opinions and stories about these new police stations. About 400 people talked to Aboriginal legal aid about this. Legal Aid also talked to some of the police there.

Nearly half of people said that alcohol and violence was less of a problem in their community because of the police. Three of every four people wanted the police living in their community. Half of the people said that the police are doing a good job, most of the rest thought they were sometimes good and sometimes bad.

What we found out was that every community had a different story about the police. In some places, almost everybody liked the police and thought they did a good job. In some places nearly everybody thought everything or some things were getting better because of the police. In these communities, people thought the police were working hard and becoming part of the community.

In some communities, some people liked the police and some people didn't. This was usually because something had happened which one of the families was angry with the police about. Sometimes the police were close with some families and not with others. Sometimes in these communities police were rough or cheeky. Often the police here did lots of searches of peoples' houses and bags without permission.

In some communities, not many people thought the police were doing a good job and not many people said that problems were getting better in their communities. In these places, people thought the police were not doing much, like they were on holiday. People complained about the police not doing anything when people told them about a problem.

It looks like the worst thing the police can do is nothing. If the police don't do much then nobody in the community is happy. Maybe it is better for the police to be working hard, sometimes making mistakes. If police work like this, some people may be unhappy but some people will be happy.

The research showed that, if the police understand Aboriginal culture and try and work the way people in the community want them to, then people will trust them more. People will more often answer their questions and go to them if there is a problem. Police can deal with crimes that happen in private where they don't see it, like stealing. If the police understand Aboriginal culture it is not just good for the community, it also means they work better and are more effective in their job. There is a list of things that people thought the police should do so that they were working in the right way on pages 41 and 42.

Aboriginal people watch the police, decide if that person is good or bad first. Aboriginal people generally don't see all police as either good or bad, but that some are good and some are bad.

The biggest complaint from people was police searching houses and bags without permission. People were also upset that police would go to private places without permission. Many people thought that the police were just checking Aboriginal people for grog and registered cars, and not white people. Sometimes police were violent and cheeky, but only a few of them.

When Aboriginal legal aid looked at the law, it found that the law gives police more power to go places on Aboriginal land and to arrest Aboriginal people. Also, in practice, Aboriginal people had to obey extra laws that non-Aboriginal people did not. In general, most of the things that the police were doing that Aboriginal people did not like, police were probably allowed to do. There is one exception – the police may not be able to go into houses for random searches. The law is not clear about this and this needs to be cleared up.

Another big problem was communication with the community and between the police and the community. Currently there is no group of people set up in most places for the police to engage with.

If the community want a say in police work, they should set up a community law and justice group to make agreements with the police, representing all the families.

Other research says that police in the cities, when they target Aboriginal people, generally work to serve and protect mainstream people from Aboriginal people. Police are taught to work in this way, and they have a culture which sees Aboriginal people mainly as targets of police work. This research says that this might be true, but that when police move to Aboriginal communities, things change.

At first, police are confused because they are two laws, cultures and worlds which are mixed together. Sometimes these two worlds contradict each other. The old ways of police working don't work very well. Often unexpected things happen, like conflict. Sometimes the things they do don't make any difference at all.

As police live in the community, there are two paths that they go down. One path is to policing that fits with the two worlds. They learn how to protect Aboriginal people as well as make them their targets. They change how they work to fit the situation. Their culture changes because they can't keep their old police culture in remote communities

The other path is one where they just don't do anything. They stay in the station. They can't make the changes to the way they work to protect Aboriginal people. They don't make much difference to the community. They can't keep doing that city way of making Aboriginal people targets because there aren't many mainstream people for them to serve and protect. A few police are still violent or cheeky sometimes but not many police stay that way.

Senior police should encourage police to go down the first path and not the second. They can do this by selecting police to live in the communities that are open to changing the way they work. Police should stay longer in communities and listen to community members. Police should also have training which is practical in dealing with community issues, like how to deal with poison relationships, how to hold a community meeting and things like that.

Aboriginal people have different options for dealing with a problem, not just telling the police. They can use traditional laws, or they can talk to night patrol. They often will just sort things out themselves. Aboriginal people prefer telling the police, because the police have a lot of power, because they don't know everything about them and because they aren't connected to one family. They can be impartial. But if police aren't good, Aboriginal people will use these other options.

In some ways, Aboriginal people have a lot of power to influence the police, by deciding whether or not to tell them what is happening. There's a lot of Aboriginal land and police can't see things that happen away from the communities. The government has given the police extra powers but really if the police want Aboriginal people to cooperate with them they need to build up trust, there is no alternative.

Police can't always do what Aboriginal people think is the right thing because of the laws which seem unfair. Aboriginal people don't understand court very well and don't have much power there. It's often hard to get there in the first place because court is often very far away and people have no cars. Many Aboriginal people think that prison doesn't work for Aboriginal people, that it doesn't stop people doing crime. The statistics from the government say the same thing.

Many Aboriginal people think that community service or being sent to an outstation is better. Many Aboriginal people think the best punishments are the ones that deal with the problems underneath the crime. Some people may not go to the police for these reasons.

Two big problems came out of the research. These problems are ones that the police by themselves cannot fix. Even if police arrest lots of people or sent them to court for these problems, the problems will still be there. The first one is alcohol. New laws mean that Aboriginal people don't have anywhere to go to drink. Aboriginal people either go into towns and binge drink, often getting into trouble with the police, or else there is grog running, homebrew and sly grog. Usually, there are drinking camps by the blue signs at the edge of Aboriginal land, these can be unsafe, next to the road, with no water and no shade. Police are also using their strong powers under the Alcohol laws to take alcohol off people even when they are not going to drink it somewhere they are not allowed to.

People are generally happy that alcohol is banned from inside the community, but many people thought that people should be allowed to drink responsibly. This seemed like having a club or a safe place to drink *near* their community but not *in* the community, with restrictions on how much people could drink and no take-away.

The other big problem is to do with cars and transport. Lots and lots of people are going to court, getting fines and prison because they don't have a licence or their car is not registered. It's very hard for Aboriginal people in communities to get licences and get their cars registered. There's generally no public transport in communities and between communities, like buses. People don't have a choice but to drive illegally, for example, if they are sick or to get food from the shop. It's also very hard for them to get to court because of this. Communities and shires should think about setting up these services, either as a small business or as a shire service.

If communities and government took action on these things, there would probably be a lot less people going to court and a lot less people getting in trouble.

EXECUTIVE SUMMARY

NAAJA and CAALAS undertook research into policing under the NTER ('the Intervention'), in particular the establishment of 18 new police stations in Aboriginal communities. The findings of the research are primarily based on 331 surveys of Aboriginal people in 14 of the 18 communities, and around 70 interviews with elders, community representatives, police and other service providers in those communities. This data was supplemented with statistical data from the courts and from the police.

Overall, 17% of respondents believed 'everything' in their communities had improved since the start of Themis; conversely 14% of respondents believed 'nothing' had improved. Problems that are visible in public spaces had improved the most; these were alcohol (46%) and community violence (45%); less visible crimes like marijuana use, sexual assault and stealing recorded less improvement.

Overall, 75% of respondents wanted a permanent police presence and 53% believed the police were doing a good job (compared with 59% across the NT generally according to the NTPFES Annual Report 07/08). There was a slight decrease in positive feelings towards the police since the start of Themis.

These figures hide very large differences between communities. For example, in some communities less than one fifth of people reported improvements in alcohol whereas 90% of people in other communities reported improvements. The proportion of people who believed that police were doing a good job ranged from 11% to 85%. People's feelings about the police often underwent big changes, positive and negative, since the initial establishment of the stations. Nowhere did less than a majority want a continued police presence.

What the research highlights is the massive differences in experience with the police between different locations. In different places, police worked in different ways, targeted different crimes (though with a general focus on 'public' offences like alcohol, and traffic offences), and had different levels and types of engagement with the community.

There were not many similarities in police practice between communities with high reductions in crime, and/or those with high approval ratings. Some were considered relatively 'heavy-handed' and others preferred a 'light touch'; some spent a lot of time on community engagement and others played sport with kids. However, the common factors were an active and visible police presence (regardless of the activity) and a general involvement with the community, whether it was with sport, elders, or going hunting. Police ability to issue drivers' licences and register cars was highly valued by locals.

In contrast, there were a group of communities in which there was little improvement in crime and low approval ratings. This was strongly correlated with police being unresponsive and inactive. People complained that police failed to respond to reports of crime including domestic violence and were rarely seen outside the station. Many people said they seemed to be 'on holiday.'

Clearly having the right people is more important than having policies or directions, because policing in communities is characterised by high levels of autonomy and discretion.

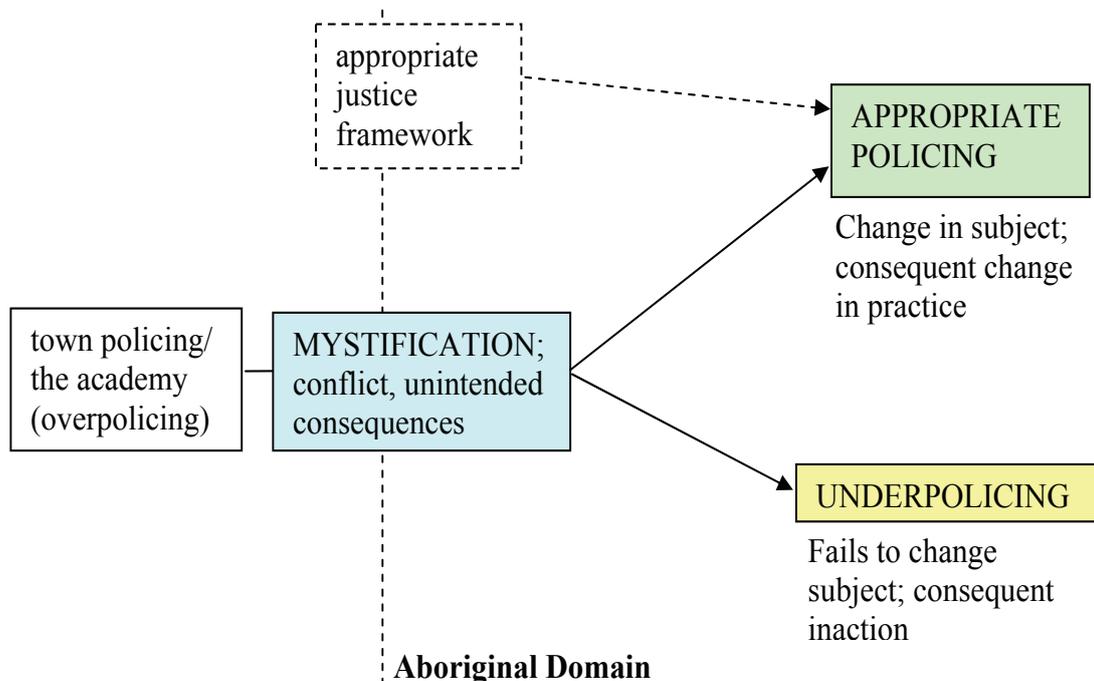
Aboriginal people that participated in the research usually see individual police as good or bad rather than the police in general as good or bad. Aboriginal people are generally highly perceptive of police behaviour and this individual's behaviour then determines whether they will interact with that individual.

Existing academic literature on the subject suggests that overpolicing in the cities is driven by a 'subject' or client mainstream community and is largely demand-driven. The accompanying distinct police culture is maintained where police mainly socialize with each other.

By contrast, in the Aboriginal domain, this mainstream client group, with its particular demands, is largely non-existent. The local, largely Aboriginal population has a different set of characteristics and demands. Police are initially largely unaware of these and experience 'mystification' when they enter the Aboriginal domain.

It appears that there are two trajectories for remote community policing; one is a trajectory towards appropriate policing, where police learn to navigate the distinct characteristics of the Aboriginal domain and to adapt their practices to the local population's distinct demands. In a number of communities police appeared to be on this trajectory.

The second trajectory is towards underpolicing, where police fail to take on the local population as their 'subject' and adapt their practices accordingly. Unchanged, established police practices are ineffective or cause unexpected results, including conflict. Demand falls away as local people turn to other means of dealing with problems in a process of 'mutual disengagement'. Underpolicing may include violent or abusive police behaviour or it may not. The model of remote policing developed in the research is shown below



Overpolicing behaviours, for example charging high numbers of people for minor offences, do not appear last long in the Aboriginal domain. Instead, police appeared to be moving along one of these two trajectories towards 'appropriate policing' or 'underpolicing'.

Inappropriate police behaviour towards a person or group of people is likely to alienate that group of people within the community. Intrusive searches or culturally inappropriate behaviour is likely to alienate a wider group of people. By contrast, police inactivity and unresponsiveness alienates a much greater proportion of the community.

Even in low crime communities, people were happy with the police presence provided that the police provided a community service, for example, issuing gun and drivers' licences.

Not all of the high-ranking communities carried out what might be called culturally appropriate policing. However, there was some correlation between culturally appropriate policing and higher levels of trust, as measured by increased likelihood to go to the police if the respondent was a victim of crime. This meant that the police could then be active on more 'private' crime like sexual assault. In this way, being culturally appropriate assists police to be more effective in their job.

'Cultural awareness' is too narrow to understand all of the issues regarding life and society in the Aboriginal domain. Knowledge of the Aboriginal domain which includes culture, how communities operate, dealing with people with poor English and literacy, and related issues, should be taught and valued for its practical usefulness in increasing police effectiveness.

Aboriginal people define appropriate policing as not just limited to culture but also understanding these broader aspects of life in the Aboriginal domain. The concept should be broadened and redefined as 'appropriate policing' or 'Aboriginal-appropriate policing'. Aboriginal people had a clear idea of what appropriate policing is and there is a list on page 41 and 42 of its common elements.

The research shows that some police are acting in what is an appropriate way, with knowledge of the Aboriginal domain, and these police are generally regarded highly by local people. However this knowledge was gained through experience rather than training. In terms of training specific to working in Aboriginal communities, police received a 1-2 hour long presentation prior to deployment. NT police also experience an overnight stay in an Aboriginal community as part of their training. Where police have an understanding of appropriate policing, this does not appear to be transferred or passed on in a systematic way within the organisation.

Although police appeared to rarely engage with the community in a systematic way, this is partly due to the absence of community representative structures following the move towards the shires. Community advisory boards were largely yet to be established. Some communities are moving towards establishing Community Law and Justice Committees. Evidence shows they have been effective in reducing crime in the past where they received external and local support.

The most common complaints regarding the police were:

- Police regularly entering houses without warrants or permission, and often conducting rough searches and viewing and handling sacred objects.
- Police issuing fines or summons to court for people driving unregistered or unlicensed vehicles within the community, or on bush tracks when people were going hunting.
- Police searching bags, particularly women's bags.
- Police being racially discriminatory with regards to conducting searches and enforcing the law, particularly to do with alcohol
- Police being unresponsive to reports of crime, including domestic violence.

Violence and verbal abuse do not seem to be endemic practice by police in operation Themis, but people did identify certain police who were 'cheeky' or violent. In general complaints were not of things particular to Aboriginal culture but things that non-Aboriginal people would also find objectionable, e.g. entering houses without permission, shooting pet dogs, interrupting ceremony to make arrests. In some ways it could be argued that understanding the similarity of Aboriginal values, for example, the importance of private space, is as important as understanding unique aspects of Aboriginal culture.

In these common complaints above the police were not greatly exceeding their powers in law (apart from perhaps the intrusive house searches, though this is a grey area) because of the racially discriminatory law towards Aboriginal people, in particular, the NT Interpretation Act, the NT Liquor Act, the NTNER Act (Cwlth) and the accompanying suspension of the RDA. These three Acts increase police powers with respect to Aboriginal people; other examples of increased police powers are the ACC's NT Child Abuse Taskforce and the mandatory reporting of underage sex under the NT Care and Protection of Children Act.

The NT Liquor Act was designed to assist police to enforce consensual alcohol bans within small areas in and around remote communities. However, due to the NTER and regional towns declaring themselves public restricted areas, the Liquor Act now applies to the majority of land in the Northern Territory. Where police powers have been increased, some police have misused these powers. Although ostensibly just for searches for alcohol, police now have the power to conduct random searches of any vehicle and person (and, they believe, of houses) in the Northern Territory.

The research indicates that these extra powers, and the police use of these extra powers, are likely to be counterproductive in dealing with these 'private crimes' like sexual abuse. It indicates that increased understanding of the Aboriginal domain and relationship building is likely to be more effective in dealing with these issues than the use of intrusive police powers. In contrast to government rhetoric on mainstreaming, the government treatment of Aboriginal people by police and by the law is showing increasing divergence from the mainstream.

Aboriginal people in general occupy the Aboriginal domain; here they have significant agency (power) through the control of information, the sheer size of the area compared to the population, and can engage in a kind of "passive resistance" through disengaging with agencies that exhibit what they consider inappropriate activity. Changes to the law cannot affect this agency and instead relationship building and demonstrated appropriate, high quality and visible work practices are necessary in order to gain increased cooperation and information flow.

Aboriginal people have alternatives to using the police, including formal-Indigenous, informal-Indigenous, and hybrid avenues for dealing with a problem. If police fail to act appropriately and actively Aboriginal people will turn to other means of resolving disputes. At the same time, the police are often the first choice of Aboriginal people because of their perceived additional authority and because of their 'known outsider' status, i.e. that they can act impartially. ACPOs are likely to be most effective where they can also gain this known outsider status; that is, in places where they do not have strong local family ties.

Even if police practices are appropriate, Aboriginal people may not cooperate because of beliefs about the (in)efficiency of the justice system, including a largely incomprehensible court system in which their legal assistance is underfunded and therefore inadequate; people have difficulty traveling the often several hundred kilometres to court, where they (ironically) are often summonsed for traffic offences. Access to court emerged as a major issue for some of the communities with police stations, driving increased criminalization.

In general, respondents appeared to believe that prison perpetuates the drivers of offending, does not address the causes of offending, and that other punishments, like shaming as part of community service, are more appropriate and effective. This partly explains statistics on prisoner re-offending (44.6% in 2007/08) and the fact that Aboriginal prisoners are three to five times more likely to re-offend than non-Aboriginal prisoners (NT Office of Crime Prevention, 2005). In this context, increasing the severity of punishments is likely to be ineffective.

Appropriate policing is limited by, and cannot be fully realized when, the broader criminal justice system is inappropriate for Aboriginal people. Aboriginal offending is 'overdetermined' in many ways by their environment. Due to this, even appropriate policing will be unable to bring down offending in certain areas (as shown in the data). This is particularly true in the areas of alcohol (a driver for other offences) and traffic offences.

A combination of the NTNER Act and the declaration of public restricted areas over most regional towns in the NT means that in the almost whole of the Aboriginal domain it is now illegal to consume alcohol. 12 of the 14 communities surveyed were dry prior to the NTNER. In most cases, the NTNER Act has pushed the border of the restricted area out by long distances; in some cases, hundreds of kilometres. This has led to a number of unsafe or highly unsafe practices, including increased binge drinking, home brewing and sly grog. It has led to increases in people traveling hundreds of kilometres to go to towns to drink and increased criminalization.

Many people wanted the opportunity to drink responsibly but responsible drinking is either impossible or highly discouraged by their situation in many, if not most communities in the research. People were, in general, content to go outside the community to drink but the long distances to a place to purchase or consume alcohol were less welcome.

It has also led to the growth of drinking camps in the few places where it is still legal to drink, principally road reserves on roads outside Aboriginal land. These drinking camps are highly unsafe, with a lack of water and shade (in desert areas in particular), situated right next to roads and up to hundreds of kilometres from communities. Night patrol cannot and police generally do not monitor these camps.

The provision of safe places to drink outside, but reasonably near to, communities should be considered a priority. The ideal situation may be a pub with limited hours, limited strength alcohol and a position somewhat outside the community, however this is likely to vary between communities..

Anecdotally, traffic offences make up the majority of matters before most bush courts. Maintaining a roadworthy vehicle and obtaining a driving licence presents large challenges in remote communities. Some communities report that, due to the police presence, there are almost no cars. There is an absence of alternative means of transport in remote communities. People stated they have now increased difficulty in obtaining food, medical assistance and getting to work and school, as well as getting to court.

The establishment of public or hybrid public/private transport is likely to reduce criminalization, increase compliance with the law and improve social outcomes. It could be reasonably cost-neutral in most cases if there are charges for use.

RECOMMENDATIONS

Recommendations are aimed at all those parties that cooperated with the research; Aboriginal legal aid organisations, the NT police and the shires and government departments, as well as the people living in the communities themselves. Recommendations are based in the findings of the research as summarised above.

For Police

Practical recommendations arising from the research:

1. It is suggested that there be clear guidelines and increased monitoring, perhaps by an oversight committee, of police exercising their powers under the NT Liquor Act.
2. In the development of the Police's Remote Policing Strategy, the list of items on pages 41 and 42 should be taken into consideration.
3. Police should develop a procedure on community engagement in the absence of an existing community representative structure. Police can, with local assistance, identify the different family groups and then identify people who can liaise on behalf of that group with police, including people of both genders and young people.
4. It is suggested that the construction of permanent stations should be prioritized in communities the most distant from existing courts and with higher crime rates, as the planned permanent police stations include space to be used as a court.
5. The importance of having police at a station that can issue driving licences, car registration and gun licensing should not be underestimated.
6. The use of signage attached to police station fences to provide simple information on the police and law is recommended as a way of increased communication.
7. A form of intercom or the deployment of similar technology attached to the station fence which can be used to contact police, either locally, on patrol, or that would divert to the regional police centre would assist in allowing people to contact the police in a context of low rates of phone ownership.
8. An ability to adapt their practice to serve a non-mainstream community, should be taken into consideration in deciding which police to send to work in an Aboriginal area.
9. ACPOs are likely to be most effective in communities other than their home communities. When considering whether to allocate staff housing to an additional non-Aboriginal police officer or to deploy a non-local ACPO, the latter may add greater value to the police presence.
10. Searches of bags of those traveling by plane to Aboriginal communities should be carried out at the point of departure rather than point of arrival, where police are better equipped to carry out searches in an appropriate manner.

11. Accredited translators should be paid for their services, particularly for more extended interviews. Timesheets from the AIS can be obtained and filled in as necessary. Multiple translators in each community should also be identified.
12. The police may wish to consider joint submissions to government with Aboriginal organisations in areas where there is a common understanding, particularly for action to ameliorate the drivers of offending as discussed in the research.

Considerations around training and career development in light of the research:

13. A review, whether as part of the regular review process, or specially commissioned, of police training and career pathways in light of the findings of the research, is likely to provide additional insight. The limitations of the recommendations below in this context is acknowledged.
14. Any review of training and career pathways should bear in mind that, where police practice was problematic, there were two distinct reasons for this; firstly, a lack of understanding of the Aboriginal domain which was likely to lead to conflict and ineffectiveness, and secondly, a perceived inability or unwillingness to adjust to Aboriginal people as the primary subjects or clients of police activity, which was likely to lead to police inactivity. The second reason appeared of greater concern.
15. The importance of people over policy in determining effective policing should be borne in mind. In this context, developing a remote policing strategy is only part of the means of police being more effective in working with Aboriginal people.
16. Given that appropriate policing is distinct from urban policing, broad in nature and requires a number of non-conventional skill sets, it is suggested that consideration be given to the treatment of remote policing as a distinct specialization or stream within the police, with a distinct training and career development pathway.
17. 'Culturally appropriate policing' is somewhat limited as a concept and should be broadened, developed and relabeled along the lines of 'Aboriginal-appropriate policing'.
18. Increased, structured knowledge transfer within the police regarding effective practice in the Aboriginal domain should be encouraged as part of this, perhaps including a mentor system. The research showed that a number of police did have an understanding of effective policing in the Aboriginal domain
19. Training should bear in mind both emphasizing the unique aspects of Aboriginal culture and life, and those which are common to both mainstream and Aboriginal culture and life, for example; the importance of private space and possessions, concepts of duty of care, and the value placed on pets.
20. Training for work in the Aboriginal domain should be both experiential, practical and ongoing, and should include:
 - Holding effective community meetings
 - Experiencing kinship and its importance

- Recognising and dealing with poison relationships
- Effective communication with people with poor English and literacy
- Avoiding factional capture
- Effective engagement with the community in the absence of representative bodies
- Aboriginal community dynamics and politics
- Engaging with alternate dispute resolution mechanisms
- Dealing with at-risk youth, particularly in the context of underage sex between teenagers
- Respectful treatment of elders
- Gender differences and how to work around them
- Aboriginal understandings of violence, including gendered violence
- The importance of visibility and Aboriginal observance
- The black market and the circulation of money within Aboriginal communities
- The role of cars, spears and guns in cultural practices
- Guidelines on where police should go without obtaining prior permission.

There are likely to be additional aspects to do with police practice that have not been identified in this research.

21. The police should ensure that socialization, both with Aboriginal people in a positive environment (for example, at a homeland), and with experienced police officers that understand and enjoy remote Aboriginal policing, be part of every recruits training at an early stage. NT police, to some extent, do currently undergo this, but AFP officers seconded to the NT currently do not, and it is suggested that it be rectified.
22. Increased opportunity and rewards for longer tenure in remote contexts beyond 6 months.

For governments, shires and Aboriginal organisations

1. Action on the most common drivers of Indigenous contact with the justice system (alcohol and traffic offences), by education on what is and is not legal, and by ensuring there are alternatives to offending, is likely to have the biggest impact on both the criminalization of Indigenous people and on reducing the size and cost of the NT justice system.
2. Although the majority of the work of legal aid services is in the courts, given both the results of the research, the position of Aboriginal people within the justice system, and the present highly underfunded state of Aboriginal legal aid services, advocacy work should be concentrated on reducing Aboriginal contact with the justice system, in line with the RCIADC's recommendations. This should include action on the drivers of criminalization. In this context, community legal education is a key priority, as is action on altering the situation with regards to alcohol and transport.
3. Aboriginal legal organisations should clarify whether police are allowed to conduct random searches of premises on Aboriginal land under the NT Liquor Act, because it is a grey area legally, either by getting external expert opinion or taking on a test case in this area.
4. Priority should be given to clarifying or amending Section 59A(1) of the NT Interpretation Act so that remote Aboriginal land (outside gazetted roads and townships) is treated as private land for the purpose of determining both what is or is not an offence, and police powers of access to this land.
5. Priority should be given to amending the NTNER Act with respect to reducing the area of land which is Alcohol-restricted to a certain radius around communities, or else amending the NT Liquor Act to reduce the area in which police can conduct random searches and confiscate unopened alcohol to the restricted areas themselves (and possibly airports – see police recommendations on searches). Most complaints regarding police behaviour stem from police exercising their powers under this Act.
6. Priority should be given to the establishment of Community Law and Justice Groups, or at least community structures that can provide direction in this area and a point of contact for the police.
7. All other states have an independent Ombudsman to investigate police complaints and it is suggested that the Northern Territory be brought into line with the rest of Australia.
8. Buildings that can act as bush court rooms should be identified and bush courts should be set up in those communities distant from existing courts and with high offending rates, high numbers of outstanding warrants, and not identified as being amongst the first wave of police stations being converted to permanent stations.
9. Priority should be given to the establishment of safe drinking places with water, shade, away from the road, and a means of transport home for those judged in an acceptable state to come back to the community. This may be in the form of a

club near but outside communities, with limited opening hours, limited strength alcohol, no takeaway and the capacity to ban people from the club. However, what is appropriate is likely to vary from place to place.

10. Priority should be given to the establishment of alternative transportation, either as a local business or a shire service, both within communities and between communities and regional centres. Assistance in transport to court may also be necessary.
11. Priority should be given to an effective and comprehensive community work order system. This is also likely to be cost-beneficial for government, given the high cost of maintaining a large prison population with a tendency to recidivism. The growth in crime, court volumes and the NT prison population has come despite increases in police numbers, police powers, restrictive laws and the severity of punishment in the NT. Alternatives to populist policies are likely to be more effective in reducing crime, as Aboriginal people themselves testify.

For community members

1. Community Law and Justice groups have been effective in the past, and there is a lot of government documents that give them authority. For example, police have been directed to take on board community input. External support can be obtained from Aboriginal Legal Aid. It is also a way of providing direction to night patrol. People might like to look at stories of other groups that have made a big difference in the past.
2. There are a number of 'grey areas' in Australian law with respect to Aboriginal land. The biggest one is to do with police power to search houses in Aboriginal communities. Legal Aid needs to test the law on this issue. To do this we need someone to come to us with a formal complaint to do with random police searches of houses.
3. If you think the police have done something which is not right, for example, searching people's houses without permission, contact Aboriginal Legal Aid. In the past, people have generally only put in complaints on violent behaviour by the police, but people can complain in other areas as well, like police going where they shouldn't. This will help make clear the limits of police power.
4. People might like to think about two ideas for setting up a small business; a community taxi/bus service or a small-scale club near the community. This will not only bring in an income but may also contribute to reducing offending, promoting responsible drinking and reducing some of the more unsafe drinking behaviours.
5. If people don't want police going somewhere without permission or without a reason, people should consider that the land trust that owns the land lease the land to an Aboriginal corporation owned by the people that own or live there. If you are interested in this, it is best to talk to a lawyer at the Land Council.

Areas for further research

1. Determining whether policing in communities which have had longer-established police stations fits the conclusions of this research, as well as examining police activity in communities without a permanent police presence. In particular the issue of police procedure with regards to larger-scale community conflict did not come up in the communities surveyed and this is likely to warrant a degree of investigation.
2. Determining whether policing in urban areas in the NT conforms to the 'overpolicing' model or not.
3. Criminology from an Aboriginal viewpoint, including; what is and is not considered problematic, what the drivers of offending are from an Aboriginal perspective, and how the current legislative setup impacts on offending rates.
4. Understanding what Aboriginal people consider to be effective punishments and deterrents. The research has indicated that community work orders or restrictions to outstations are considered preferable, but more needs to be done in this area.
5. Power dynamics and financial dynamics in Aboriginal communities to better understand drivers of crime and effective action to reduce criminal activity.
6. A review of the situation with regards to DVOs and the effectiveness of the NT's Violent Crime Reduction Strategy.
7. An examination of feuding and drivers of long-term between-family conflict would be valuable, including recommendations on mediation and reconciliation in this context.
8. An examination of lodgements by offence type at selected individual bush courts and regional town courts.

LIST OF ACRONYMS

ABS	Australian Bureau of Statistics
ACPO	Aboriginal Community Police Officer
AFP	Australian Federal Police
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
AJAC	Aboriginal Justice Advisory Committee
ALJS	Aboriginal Law and Justice Strategy (NT)
CAALAS	Central Australian Aboriginal Legal Aid Service
CAHREC	Central Australian Human Research Ethics Committee
CLC	Central Land Council
CLE	Community Legal Education
DoJ	Department of Justice (NT)
DVO	Domestic Violence Order
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs (Commonwealth)
HREC	Human Research Ethics Committee
HREOC	Human Rights and Equal Opportunities Commission (now the Australian Human Rights Commission)
ILC	Indigenous Law Centre, UNSW
LCS Report	The Little Children are Sacred Report
NAAJA	Northern Australia Aboriginal Justice Agency
NHMRC	National Health and Medical Research Council
NLC	Northern Land Council
NT	Northern Territory
NTER	Northern Territory Emergency Response ('the Intervention')
NTHREC	NT Department of Health and Families and Menzies School of Health Research Human Research Ethics Committee
NTLAC	Northern Territory Legal Aid Commission
NTNER Act	Northern Territory National Emergency Response Act (2007)
NTPFES	Northern Territory Police, Fire and Emergency Services
OIC	Officer in Charge
RCIADC	Royal Commission on Aboriginal Deaths in Custody
RDA	Racial Discrimination Act
SSM	Shire Service Manager
UNSW	University of New South Wales

INTRODUCTION

Background

This research project has been auspiced by the two Aboriginal Legal Aid organizations in the Northern Territory, the North Australian Aboriginal Justice Agency (NAAJA), and the Central Australian Aboriginal Legal Aid Service (CAALAS). Both NAAJA and CAALAS are run by boards made up of Aboriginal people. The two organisations are principally funded by the Commonwealth Attorney General's Department.

NAAJA is a non-profit private corporation, formed from the 2006 merger of three existing Aboriginal Legal Services in Darwin, Nhulunbuy and Katherine. NAAJA has offices in Darwin, Katherine and Nhulunbuy and employ a staff of around 70, of which about 45% are Aboriginal. It provides culturally appropriate legal aid services for Aboriginal people in the Northern region of the Northern Territory in the areas of criminal, civil and family law. In addition to casework, NAAJA also has an advocacy section, which pursues the rights of Aboriginal people through law and policy reform. NAAJA also undertakes community legal education, and has recently started a mediation program.

Founded in 1973, CAALAS aims to provide high quality, culturally appropriate legal advice and representation to Aboriginal and Torres Strait Islander people living in Central Australia. Additionally, the organisation advocates for the rights of indigenous people, provides community legal education, and assists released prisoners and their families in their reintegration into the community. CAALAS has grown over the years and now has around 35 full-time employees based in Alice Springs and Tennant Creek. In addition to providing representation in the Alice Springs and Tennant Creek sittings of various courts, CAALAS lawyers and field officers also regularly attend bush court sittings in Hermannsburg, Kintore, Mutitjulu, Ali Curung, Ti Tree, Papunya, Yuendumu and Elliott.

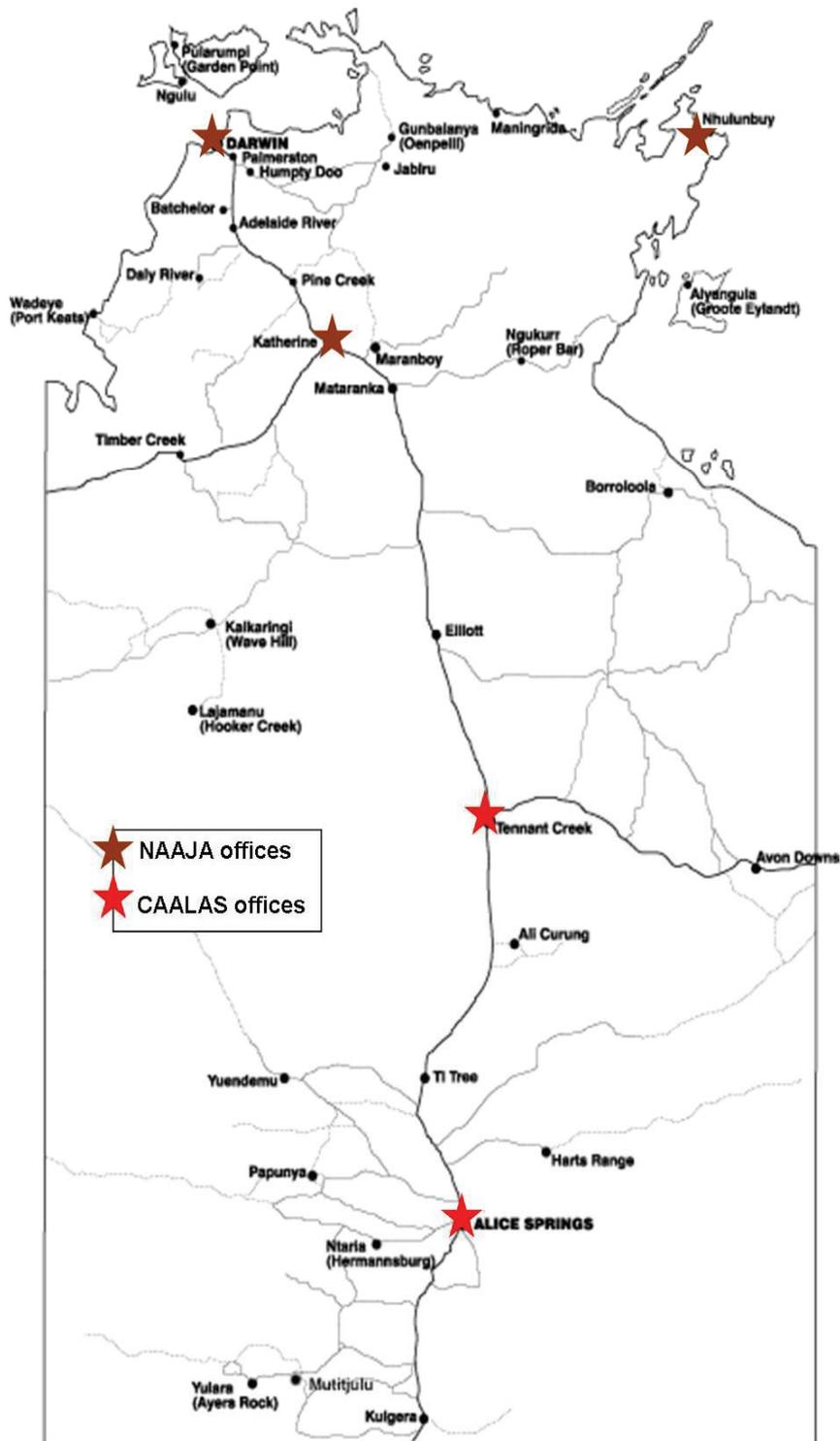


Figure 1: Map of Aboriginal Legal Aid offices in the Northern Territory

NAAJA and CAALAS jointly applied for funding for research to the Indigenous Law and Justice Branch of the Commonwealth Attorney General's Department. According to them, at the time of the application:

Many of the people we have spoken to want to have a chance to "have their say" and explain to Government/s about how legislative changes have impacted upon their lives. We see this as a chance for our clients to have their voices heard in a way which is targeted and meaningful and which will have an impact with Government because it is structured research, rather than anecdotal material.

We believe that by employing someone with research skills but by using the combined networks and community relationships of NAAJA and CAALAS, we can ensure that meaningful research is undertaken which will satisfy Government's desire for evidence about the impact of the changes. Furthermore, conducting research across the Northern Territory and utilising data from both organizations ensures that the diversity of experiences, reactions and impacts can be understood.¹

A researcher was employed in October 2008, with fieldwork taking place between January and June 2009. In addition to the funding from the Commonwealth Attorney General's Department, NAAJA and CAALAS provided in-kind support through use of field officers, administration support and oversight, their networks in Aboriginal communities, including board members, and access to records, reports and databases.

The research was overseen by an informal steering committee comprising; NAAJA and CAALAS management and board members, the NAAJA advocacy manager, the director of the University of New South Wales' Indigenous Law Centre, and the commander of the Northern Territory Police's Strategic Planning Command. The research has also been overseen by two ethics committees: the Human Research Ethics Committee of the NT Department of Health and Families and Menzies School of Health Research (NTHREC) and the Central Australian Human Research Ethics Committee (CAHREC)

A condition of the funding was that the research be linked to an aspect of the Northern Territory Emergency Response (NTER), colloquially known as 'the Intervention'. An investigation into the operation, perceptions of and impacts of Taskforce Themis was chosen. Taskforce Themis, managed by the NT Police's Taskforce Themis command, concerns the deployment of an additional 18 police stations to Aboriginal communities in the Northern Territory.

Taskforce Themis was chosen as the research topic for a number of reasons. Firstly, while a substantial amount of research on Aboriginal policing elsewhere in Australia, particularly in urban and regional areas, has been carried out, there has been little or no research to date on policing in Indigenous communities in the Northern Territory. Secondly, as a snapshot of the initial impacts of the establishment of new police stations, it was an opportune time to research this area. For example, people were able to discuss what changes had occurred in their community due to the establishment of these temporary police station. In addition, the changes in police practices over time, as the station becomes embedded in the community, would also be illuminating. In these

¹ Extract from the funding application, no date.

respects, the research is particularly valuable.

Thirdly, whilst the NTER has been subject to a comprehensive review (*Report of the NTER Review Board, 2008*), policing was barely mentioned in the review, occupying only one and a half pages of the report. The discussion of the impacts of Taskforce Themis were limited to a few broad statements, in particular:

Numerous submissions from Aboriginal community organisations and service providers in remote communities indicate that the additional police are needed and welcomed. The Northern Territory Government said in its submission that 'there is clear evidence that communities are safer.' (*ibid, p25*)

The NT government in its submission, which also included limited discussion on the impacts of the police presence, stated that 'there is no doubt that the increased police presence under NTER has had a dramatic, positive effect on law and order in remote Northern Territory communities.' (2008a, p42).

The release of statistics regarding Themis has been limited; published statistics both in the NT Police's *Annual Report 2007-2008* (2008) and the *Report of the NTER Review Board* (2008) have been limited to reporting crimes against the person and crimes against property. This excludes all active police work, and in particular excludes offences relating to motor vehicles, such as arrests for driving unlicensed, and offences relating to alcohol. Changes in the alcohol laws, and their consequent enforcement, has been a major impact of the NTER. Thus published information regarding Taskforce Themis to date has been partial, and much of, if not the majority, of the work of the police under this operation, has to date been unreported. Lastly, whilst there have been a number of independent surveys of Aboriginal people regarding the NTER², none of these surveys were undertaken in communities which received a new police station under the NTER; thus people's experiences with and opinions about these new police stations had not been methodically gathered.

Taskforce Themis

According to the NT Police's 2007-2008 Annual Report, Taskforce Themis was established in response to the NTER. The objectives of the Taskforce were determined by the NT Police Commissioner to be:

1. Establish peace and good order in the Prescribed Communities
2. Intervene with targeted and controlled responses, in collaborative partnerships, to identified priorities, including:
 - Child abuse
 - Personal and domestic violence
 - Alcohol and other substance abuse
 - Pornography

² The Central Land Council's *Reviewing the Northern Territory Emergency Response: Perspectives from six communities* (2008), Tangentyere Council's *Submission to the Review Board of the Northern Territory Emergency Response* (2008), the University of Newcastle's Institute of Advanced Study of the Humanities' report *A Community-Based Review of the Northern Territory Emergency Response* (Smith and Jackson, 2008)

3. Through structured community engagement, provide opportunities for the citizens to influence policing priorities in their particular community. (2008, p31)

A strategic assessment was carried out, and '18 priority communities were identified across the NT that would benefit from an permanent police presence' (*ibid*, p31). These are:

Mutitjulu, Imanpa, Santa Teresa, Haasts Bluff, Nyirripi, Arlparra (Utopia), Willowra, Galiwin'ku, Ramingining, Gapuwiyak, Yarralin, Peppimenarti, Minyerri, Bulman/Weemol, Minjilang, Warruwi, Numbulwar, Alpurrurulam. (*ibid*, p31)

15 of these are temporary police stations; two were pre-existing permanent police posts, staffed on a relief basis, and one is a police station (in Galiwin'ku) that was constructed prior to the NTER, at the request of the local elders who 'asked the Minister [Mal Brough] to support our efforts, by providing us with a permanent Police presence to act as Peace Keepers in our community' (Gondarra, 2008, n/p). Each of the temporary police stations, plus one of the former police posts (Mutitjulu) are staffed by one NT police, usually the Sergeant or officer-in-charge (OIC), and two Australian Federal Police officers. The AFP officers are acting as NT police. Three of the stations are staffed at slightly higher levels, and there were three stations with Aboriginal Community Police Officers (ACPOs) at the time of the research. The AFP officers have been deployed on high rotation, for between 3 and 6 months. Police officers viewed an hour-long presentation on Aboriginal culture and police work prior to deployment. These presentations were given by Yidiyu, the NT Police's Indigenous Education Unit. The deployment of AFP officers and the reduction in cultural awareness training (NT officers also undertake an overnight trip to Gunbalanya) compared to deployments to regular remote stations are the main differences between Themis and other remote community police stations.

Taskforce Themis stations are integrated into their respective regional commands. Taskforce Themis itself was set up based in Darwin to provide logistical support and coordination for the establishment and operation of these new police stations. There are some additional reporting requirements for the stations to the NTER command and there is separate reporting in the annual plan regarding Themis. The staffing of these police stations is comparatively high compared to existing police stations. For example, while Maningrida, with a population of around 3000 has two police officers (NTER Review, 2008, p25), a number of these communities, all of which have at least three police officers, have less than 200 residents. The temporary police stations are constructed from shipping containers, including the accommodation of police officers, which is part of the complex. They are fenced off, with barbed wire, landscaping and some form of shade cloth, and a gate. These 18 police stations represent almost a doubling of the police presence (in terms of station numbers) located actually in NT Aboriginal communities, of which there were 19 prior to the NTER, three of which were staffed on a temporary basis, with a number of others within a few kilometres of Aboriginal communities.

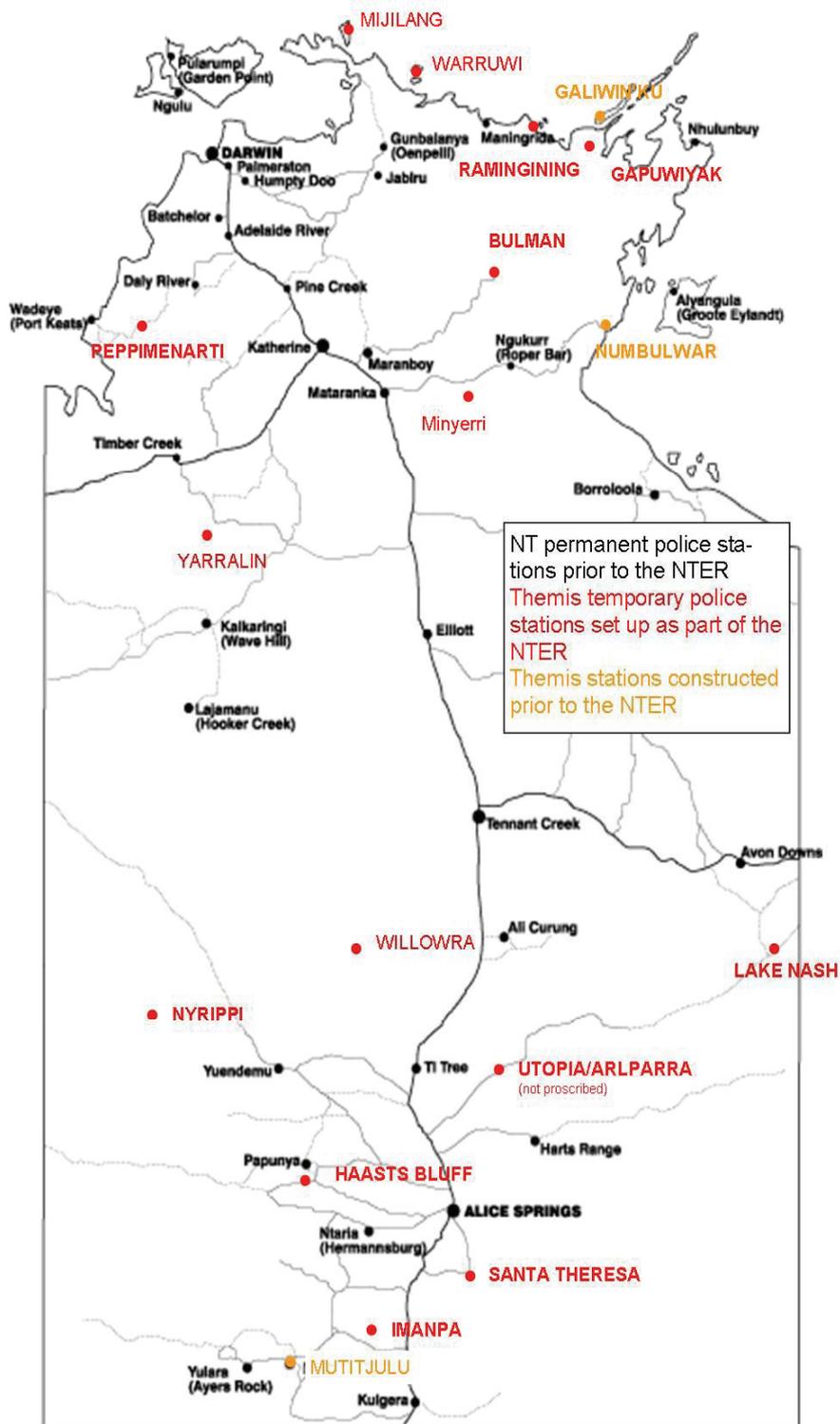


Figure 2: Map of Northern Territory police stations

Method

The research method was developed in order to be as culturally appropriate as possible, whilst at the same time providing quality quantitative (numerical) and qualitative (story) data. The research aimed to give priority to Aboriginal people's experiences and viewpoints in examining Themis, whilst at the same time, drawing on insight from the police themselves and other community service providers, and utilizing statistical data, where available, for comparison against the information and perspectives given by Aboriginal people. The research method drew on best practice for research with large numbers of Aboriginal people, as determined by Aboriginal people and academics at Charles Darwin University's Yolngu Consulting Group, as well as the method of the Central Land Council, Tangentyere Council and the Institute for Advanced Humanities' recent surveys³ regarding Aboriginal people's experiences of the NTER. For guidance, the research method followed the *National Statement on Ethical Conduct in Human Research* (NHMRC, 2007) and the *Guidelines for Ethical Research in Indigenous Studies* (n.d.), developed by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS).

The research method was subject to approval by the two Human Research Ethics Committees (HRECs) that cover the area in which the research took place; the Human Research Ethics Committee of the NT Department of Health and Families and Menzies School of Health Research (NTHREC) and the Central Australian Human Research Ethics Committee (CAHREC). There were two main reasons for seeking approval from these ethics committees: one, because the research deals with potentially sensitive personal and identifiable data of participants, and second, to demonstrate, as transparently a way as possible, that the research would be unbiased and unaffected by any perceived interest in the outcome by NAAJA and CAALAS, and that the data would not be used for any other purpose other than research and report writing, for example, as evidence in court.

Aboriginal people were involved in the development of the methodology and oversight of the research at all stages to ensure that it was culturally appropriate. The research methodology was also informed by L.T. Smith, who talks about the dangers of a type of research that 'told us [Indigenous people] things already known, suggested things that would not work, and made careers for people who already had jobs' (2001, p3). Smith challenges us to carry out research whose outcomes should have concrete benefits for Indigenous people, that 'the challenge is always to demistify, to decolonise' (*ibid*, p16). Indigenous research moves Indigenous people closer towards a process of self-determination and includes healing, decolonisation, mobilisation and transformation (*ibid*, p17). NAAJA and CAALAS' commitment to incorporate the findings of the research in their future advocacy work should satisfy Smith's challenge.

The formal consent of all participants was obtained by the use of a consent form. As well as an explanation of any risks from participation, the participants also had the right to withdraw at any time, to not answer any question, to have a translator, to take back any information provided at a later date, and to hear or read their responses to the questions to check for accuracy. Cultural appropriateness was incorporated in a number of ways: The researchers were visible in the community, for example, using visual and low-literacy signs and posters, sitting in a public place and driving around to show people they were here; the research used Indigenous facilitators and translators known to the

³ See footnotes above for details of these research reports.

community; images were used in the survey to aid understanding, the option of having the questions read to the person, with an oral rather than a written response being the norm; non-verbal communication, such as pointing, was also incorporated for sensitive topics; and finally, people had the option of doing the surveys in small groups rather than just individually.

NT Police undertook to cooperate with the research and provide direction and input to the report, subject to the meeting of certain criteria. The police did assist in providing contacts for people within the force, some interviews, some data, a demonstration of their cultural awareness training and assistance in organizing the presentations of the final report. In addition to surveys of local Aboriginal people, interviews were held with a number of current or previous officers-in-charge (OICs) that had worked on Taskforce Themis, as well as local service providers, senior Aboriginal community members, as others as dictated by the direction of the research. The number of present and former Themis OICs that participated was lower than anticipated because formal approval to contact them was only given at a late stage, because the researchers were only given permission to contact certain police, and because several police declined to participate or were uncontactable.

Statistical data was generated from the surveys of Aboriginal people. Some statistical data was provided by the police. Some data was provided by the NT Department of Justice (DoJ) regarding court volumes. More detailed data regarding offence type by court was requested but was not provided in time to be incorporated in the report. Statistical data from the NT justice system is of limited use for a number of reasons. Data on offending is determined by police presence, activity and effectiveness, as well as by people's willingness to report a problem to the police, in addition to levels of criminal activity; data is also not easily separated according to police station. Only some statistics are collected and published; much of police work is not recorded in official databases. The NT does not publish comprehensive information about crime, although there are quarterly justice statistics and the police's annual report. For these reasons, the surveys of community members regarding perceived crime levels are likely to be more detailed. For a discussion on the pitfalls of relying on official statistics regarding crime, see Coleman and Moynihan (1996). Punch (1993) also provides some insight into why the information may not have been more forthcoming. This information has been supplemented with reports and policy documents from the NT government, Commonwealth government and non-governmental organizations, and compared with the established literature on Indigenous people and the Australian justice system.

Twelve Themis communities were chosen for the research, based on a number of factors; to obtain an even geographical spread and spread in community size; and where NAAJA, CAALAS or the researcher had existing connections or were known locally. One additional community was added at the request of a NAAJA board member. A second additional community was added because NAAJA employees were visiting there for community legal education, and had some availability to carry out some surveys. To safeguard participants in the survey, the communities are referred to by the letters A to N. The community case studies are written so that they provide insight into the consequences of certain police practices but should not, in general, be sufficient for someone to identify the community, and in particular participants in the survey. Any particular Themis community may or may not have been surveyed and the letters were allocated randomly.

As well as overall trends and developments, each community was to be examined as a case study of policing in its early deployment, how deployment was carried out, how the police were viewed by their host communities, the experiences of the host communities with the local police, and the impacts of the police station on community behaviour, crime, and Indigenous people's involvement in the justice system. The survey was slightly modified part-way through the fieldwork. It appeared that the questions requiring people to think back were proving difficult for people to respond to. A number of questions were broken up to help people structure their responses. Finally, a number of issues that were repeatedly raised were incorporated into the survey as it was felt that statistical information about them would be important. This report refers to the original survey as 'survey 1' and the modified survey as 'survey 2'. Copies of the surveys are in Appendix A. Participants in the survey were paid \$10 for their time and barbeques were held. Elders, or those who talked for long periods, were paid more for their interviews, in accordance with Aboriginal customs on distribution.

As the research progressed, it became clear that related to this new police presence were other justice issues that local Aboriginal people wanted raised. In accordance with the method which gives Aboriginal people control over the direction of the research, substantial effort has been taken to incorporate these issues in the report where they have been raised by a number of people across different communities. Section A deals with Taskforce Themis, its operation and its impacts. Parts 1, 2 and 3 are concerned with policing. A number of issues were raised repeatedly across the communities that give key insight into why Aboriginal people's contact with the justice system is so high; particularly the impacts of the current alcohol laws; transport issues as a major factor in criminalization; and the perceptions of the punishment system, particularly prison, by Aboriginal people. These are discussed in the latter section of Part 3 and Part 4.

Participation

Overall, there were 331 participants in the survey across the 14 communities, with another approximately 70 persons providing interviews. This is a substantial proportion of the adult remote Indigenous population in these communities. The estimates in Table 1 below show proportion of adults surveyed in each community. Participation rates were as much constrained by time as by population. Smaller communities reported much higher participation rates.

Participation was best where the research was facilitated by an Aboriginal field officer of NAAJA or CAALAS known to the community, and in communities where NAAJA and CAALAS have historically had a presence and regularly visited. Note that community N was not visited by the researcher, but was visited by NAAJA staff independently; consequently participation was small. The data from community N should not be considered representative because of the small sample size and conclusions from this community should be treated with caution. Other small sample sizes as a proportion of total population are due to communities with relatively large populations (up to 10 times that of the smaller ones), for which the survey methodology developed and budget allocation limited participation numbers. These sample sizes are, however, considered to be large enough to be representative. Note that actual participation rates are likely to be substantially higher than calculated for a number of reasons: Firstly, the movement of people into regional centres since the population data was collected by the NT grants commission both due to the NTER⁴, and as part of the long term trend of population

⁴ Reported anecdotally and as mentioned by participants

movement into larger areas (see Taylor and Carson (2009) for an examination of this population movement). In addition, high Indigenous mobility rates also reduce the proportion of those normally resident in any particular community present at a given time.

Community	A	B	C	D	E	F	G	H	I	J	K	L	M	N	Overall
Size of community ⁵	M	M	S	S	L	S	M	L	M	S	M	M	L	L	n/a
% estimated adult ⁶ population participated	22**	5	15*	25	3	20	19	2	8*	34	19*	10*	2	1	6
Gender Balance of participants (M/F%)	47/ 53	38/ 62	29/ 71	39/ 61	48/ 52	50/ 50	52/ 47	48/ 52	52/ 48	39/ 61	33/ 67	48/ 52	64/ 36	43/ 57	45/ 55

Table 1: Information on participation rates and gender balance

Regarding the gender balance of participants, female participants slightly outnumbered male participants (55.5% to 44.5%). The Australian Indigenous population classed as 'very remote' by the ABS has a female to male ratio of 50.3% to 49.7%. This slight imbalance is consistent with other surveys carried out in Indigenous communities. For a discussion of why this occurs, see Central Land Council (2008a). The overall imbalance is not considered unrepresentative. However, some caution should be used in considering statistics from communities C and K, both with significant bias towards females. One last area that should be examined is the age-related demographics of participants, as shown in figure 4. The demographic profile of participants over the age of 18 is broadly consistent with the general demographic profile of the very remote Indigenous Australian population, as calculated by the Australian Bureau of Statistics⁷, and as shown in figure 3 below.

⁵ S – small, population under 250; M – medium, population 250 – 749; L – large, population 750+. Population figures taken from the NT grants figures where available. * indicates own estimates because official figures unavailable. ** indicates NT grant figures available, but population as indicated by Shire Service Manager is likely to be significantly less. SSM's estimate used.

⁶ Estimated adult population derived from population figures above multiplied by percentage of adults in the total Indigenous population classified as living in a 'very remote' area as calculated by the ABS, June 2006.

⁷ Source: Australian Bureau of Statistics (ABS) 3238.0.55.001 - Experimental Estimates of Aboriginal and Torres Strait Islander Australians, June 2006

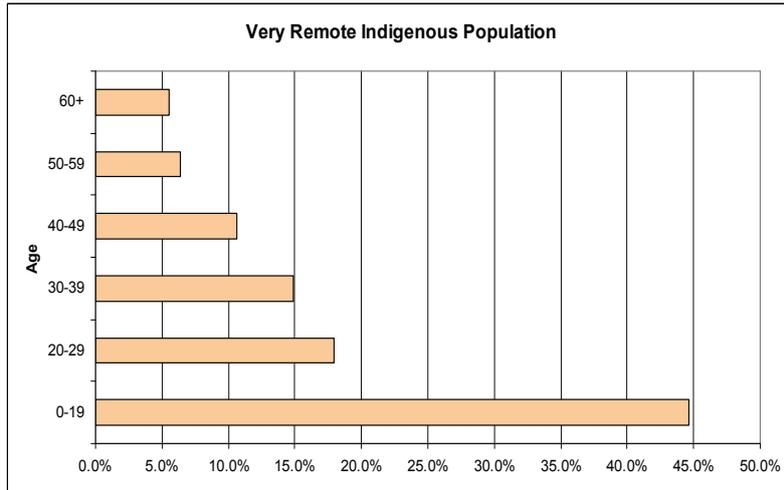


Figure 3: ABS estimates on demographics of the very remote Indigenous population

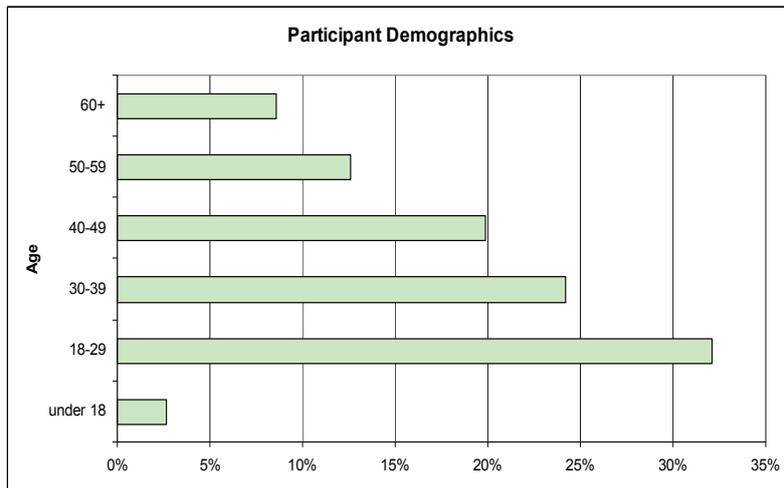


Figure 4: Demographics of participants in the survey

The significant difference is due to the high proportion of the very remote Indigenous population under the age of 20. The ABS estimates this as 44.6% of the total very remote Indigenous population. The survey was largely restricted to those over the age of 18. There were a small number of participants a few years under the age of 18, that participated with the consent of their parents or guardians. The NAAJA board requested that teenagers participate in the research; the researcher was not entirely successful in this respect because of the difficulties of getting the appropriate consent from guardians. In some of the communities, the demographics of participants was somewhat unrepresentative, with middle-aged residents under-represented in communities B and I; the elderly under-represented in community F, and young adults under-represented in participants from communities C, M and N.

**PART 1: RESULTS OF THE RESEARCH ON ABORIGINAL
COMMUNITIES AND TASKFORCE THEMIS**

SUMMARY OF THE RESEARCH FINDINGS

Each of the communities was examined as a separate case study in remote community policing. Part 2 contains a detailed examination of the experience of each community with the police. There is a summary table on pages 74 on comparing different aspects of policing broken down by community case study.

The first clear conclusion from the fieldwork is that each community has had a distinct and different experience with the police presence. There are no factors in common across all the communities of Taskforce Themis; policing styles, priorities, and levels and methods for community engagement vary, as do crime levels, crime improvement and community responses to the police. Aspects which have characterized Taskforce Themis in the popular understanding, for example, police involvement with childrens' recreational activities, do not hold true across all communities.

This divergence of experience with the police (which appears to grow greater over time between communities) is in itself quite revealing. There was a big divergence amongst the policing styles of the different police force members, for example, what crimes they prioritized, how they dealt with crimes, and whether they engaged with the community. Aboriginal people were very aware of that and, rather than labeling all police as 'good' or 'bad', were always at pains to point out bad individual police whilst acknowledging the good work of others e.g. "One of the police is alright that [name] he's really good. That [Aboriginal] policeman he's not really helpful – [name]. Sergeant elderly one - has attitude problem." Aboriginal people's opinions of the police are not generalized, but each individual is judged based on observations of his or her behaviour, and this will then determine whether the individual will interact with that person, for example, in reporting or crime or responding to police questions. This divergence of practice⁸ amongst police officers in Taskforce Themis is consistent with general academic research on mainstream police which emphasise the local autonomy of the police officer and high levels of use of discretionary power (e.g. Punch, 1993).

There are however, a number of trends and conclusions from the data. Between 17% to just under half of respondents overall believed crime problems had reduced since the arrival of the police, depending on the crime, with alcohol and community violence reporting the highest decreases (this lower end includes the 17% of respondents who believed that 'everything' had improved). This varied greatly between communities; in the case of alcohol, for example, between 90% of respondents reporting improvements in one community compared to only 17% in another. Only around 13% of respondents overall believed nothing had changed since the arrival of the police.⁹ While it is clear the police have had large impacts on crime some communities, for others, the impact their presence has had on crime in the communities is questionable.

One central point to bear in mind is that a high proportion of people wanted police living in their community; around three quarters of respondents, with up to 100% of respondents in some communities. Even communities with little crime prior to the arrival of the police welcomed having police living in their community provided the police worked appropriately and delivered useful functions, for example issuing gun licences

⁸ In this document, this term refers to the way in which police work

⁹ With a quarter of participants in the survey not providing an answer to this question. Note that people were not explicitly given 'nothing' as an option, and a number, if not most of, the 'no response' category are likely to believe that nothing has improved due to the design of the question.

and driver's licences. At the same time, respondents' overall approval of how police were working was much lower, with a bare majority reporting they believed the police were doing a good job. It appears that, whilst Aboriginal people recognize the necessity of having police in their communities, either to deal with violent crime and enforce alcohol restrictions, or to provide services like issuing driving licences, there is often a deep ambivalence about the police. As one person put it, "sometimes good, sometimes no good. In two worlds". At the same time, in some communities, police were very successful in overcoming this ambivalence, with high approval ratings of 85% or more in some communities.

In others, however, people's ambivalence was borne out by police practices and in certain communities, approval ratings were very low. Interestingly, the lowest approval ratings (and communities that reported little or no improvement in crime) were from those in which the police were widely perceived to do little but sit in the station; there was a high correlation in the data between perceived police inaction, low crime reduction rates and low approval rates. In these communities, respondents believed the police often failed to respond to crimes reported to them, including serious domestic violence, and failed to engage with the community. These communities had by far the lowest approval rates and only a small proportion of participants in the survey had seen improvements in crime in these communities since the arrival of the police. As one person said, "It's like we don't have police living here, that's what I feel."

By contrast, communities which reported the biggest decreases in crime and the highest approval rates did not share a common set of factors around police practices in the community. In some places the police engaged with elders, took direction from them, and had experience in working in Aboriginal communities; in other places, police did not engage the community in this way, but were active in targeting crime in other ways. Some police used their discretion to focus on community crime priorities like stealing and violence; in others police, against the desires of the community, focused on traffic offences as well. However, while police practices varied between communities where crime was successfully reduced and community approval was high, there are two common themes. One is 'active policing' in the sense that police were active in their work and visibly did something, either engaging with people or regularly going out and doing roadblocks etc, including being visible around the community. The second was 'involvement' – whether the police were culturally appropriate or not was less important for these outcomes than getting to know people and being out and about e.g. patrolling on foot around the community.

Being culturally appropriate, for example by respecting community wishes regarding the focus of policing or trying to avoid overly intrusive searching and so on, did not uniformly lead to large reductions in crime, and was not necessary for above-average approval ratings, but it did lead to higher trust levels, with community members more likely to answer police questions and more likely to report a problem to the police. This then allowed police to successfully act on a broader range of crimes, including more 'private' crime like stealing. The training of police for Taskforce Themis was limited to a one to two hour presentation¹⁰. Aboriginal people appeared to have a clear idea of what culturally appropriate policing is however; there appeared to be a large number of common issues across the communities. A list of what came up as 'appropriate policing'

¹⁰ The presentation is quite informative however, discussing kinship and other aspects of Aboriginal culture. Some practical issues were discussed. Police interviewed believed that police deployed to these communities received no training. The training might be more valuable if it was more experiential .

is on pages 41 and 42. Police without a long working history in Aboriginal communities appeared to have little knowledge of how to successfully engage with the community in an appropriate manner¹¹. At the same time, there were widespread attempts to engage, even though these attempts may often have been limited to playing sport with the young people. A lack of communication between the police, the community, and other community safety services, particularly night patrol, was cited as a problem in a number of places, and a structured way for these parties to communicate and engage, for example, a community justice and safety committee, as recommended by the *Royal Commission into Aboriginal Deaths in Custody* (Johnson, 1991), the *Little Children are Sacred Report* (Rex and Wild, 2007) among others, is likely to prove beneficial. Some communities are attempting to set this up but their experience indicates they will need external support in dealing with complex and overlapping bicultural, bi-legal issues.

Complaints about violence and verbal abuse were limited to a small number of police officers, often those there for short durations. The most widespread complaint was the intrusive nature of police searches of houses and bags; although this is a grey area legally and the limits of police powers in this area have yet to be established in court; the law gives police more power to enter Aboriginal people's private areas without a reason. Respondents believed that police did target Aboriginal people as opposed to non-Aboriginal people, for searches for alcohol, either of cars, bags or houses; complaints along these lines were widespread. However, it does appear that, in Taskforce Themis communities at least, 'overpolicing' behaviours are generally more closely linked to racially-targeted laws in the Northern Territory¹², rather than police exceeding their powers. Likewise, the law often acts to criminalize Aboriginal people for what could be considered reasonable behaviour for people in the circumstances, for example, by failing to provide for responsible alcohol consumption and thus encouraging binge drinking, sly grog and grog running; and by criminalizing the driving of unregistered cars by very low income families where there are no transport alternatives for, for example, buying food or obtaining medical assistance¹³. In some places, police used their discretion to avoid some of the harsher impacts of these laws on Aboriginal people.

Where serious incidents had occurred in a community, these incidents generally alienated a section of the community, rather than the whole community. Whilst this in itself is cause for concern, as those likely to be alienated were often the most vulnerable families, at the same time, it appears that repeated police failure to respond to reported problems in the communities and being inactive is comparatively more damaging as this alienates the whole community in a process of 'mutual disengagement'. Finally, there are indications that there is a difference between police practices in Taskforce Themis and those in other Aboriginal communities and towns in the Northern Territory; many of the most serious complaints about police referred to police outside the Themis communities; however, this has yet to be tested systematically and more research is required in this area.

¹¹ This may be partly due to the absence of representative structures in most of the communities since the establishment of the shires as community advisory boards have yet to be established in most communities surveyed.

¹² Particularly to do with alcohol (including the NT Liquor Act and the Northern Territory National Emergency Response Act), the NT Interpretation Act, and the powers given to the Minister under the NT Aboriginal Land Rights Act (ALRA).

¹³ Both of which are discussed in detail in Part 4.

CHANGES IN CRIME

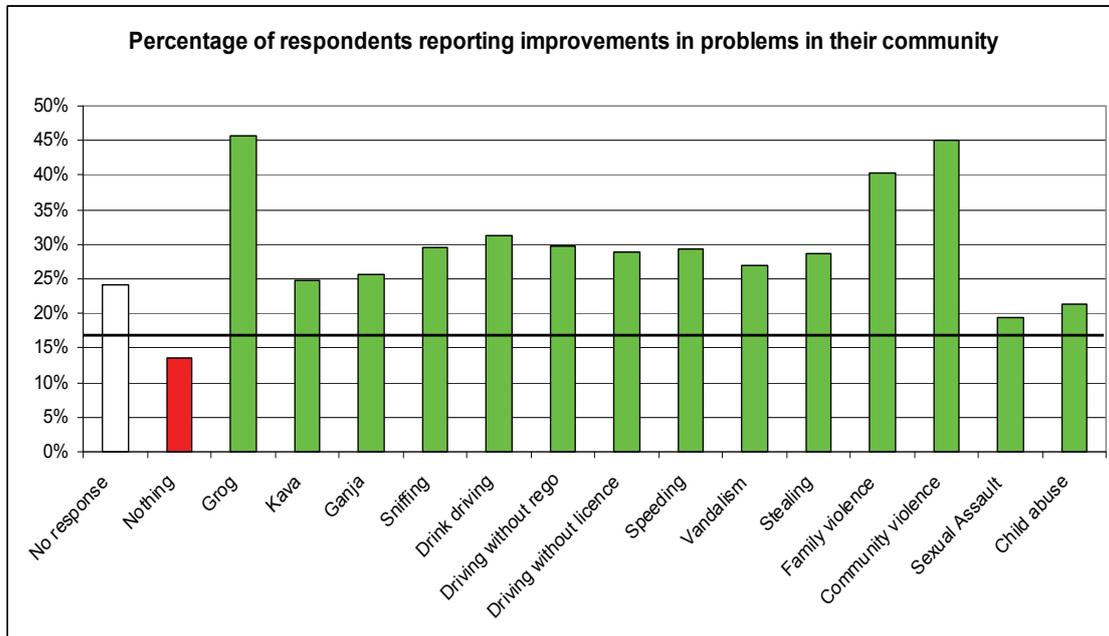


Figure 5. Note that the line indicates the proportion of respondents that indicated ‘everything’ had improved (17%); care should be taken in recording improvements in individual crimes below this line.

Overall, 17% of respondents made a general statement that ‘everything’ or all crimes had improved since the police had arrived. 14% of respondents conversely explicitly stated that they believed that ‘nothing’ had improved since the police came. Police presence has had a clear impact on the presence of alcohol in most communities, with just under half of respondents reporting improvements in this area. At the same time it should be noted that the nothing responses were spontaneous, and a considerable proportion, if not the vast majority, of the ‘no response’ category are likely to be from people who do not believe there has been a change. The proportions are therefore quoted with the no response proportion. Only one of the communities went from being a ‘wet’ area pre-NTER to becoming a ‘dry’ area post-NTER (the one which believed that they had the least alcohol problem of any community previously), however most communities had a shift in the border of the alcohol restricted area, sometimes by hundreds of kilometres. Alcohol is discussed in detail in Part 4 of the report. The police also had a clear impact on levels of violence in communities, particularly community violence. The police had less of an impact on traffic offences like driving without a licence and in particular property crimes like stealing. In a number of communities, the police have focused on enforcing traffic offences, but it appears that these offences are quite ‘sticky’ – enforcement of the law does not lead to a reduction in these crimes due to significant socio-economic/cultural factors which are also discussed in section Part 4 of the report. On average, around one third to two fifths of respondents believe a number of crime problems have reduced since the police presence.

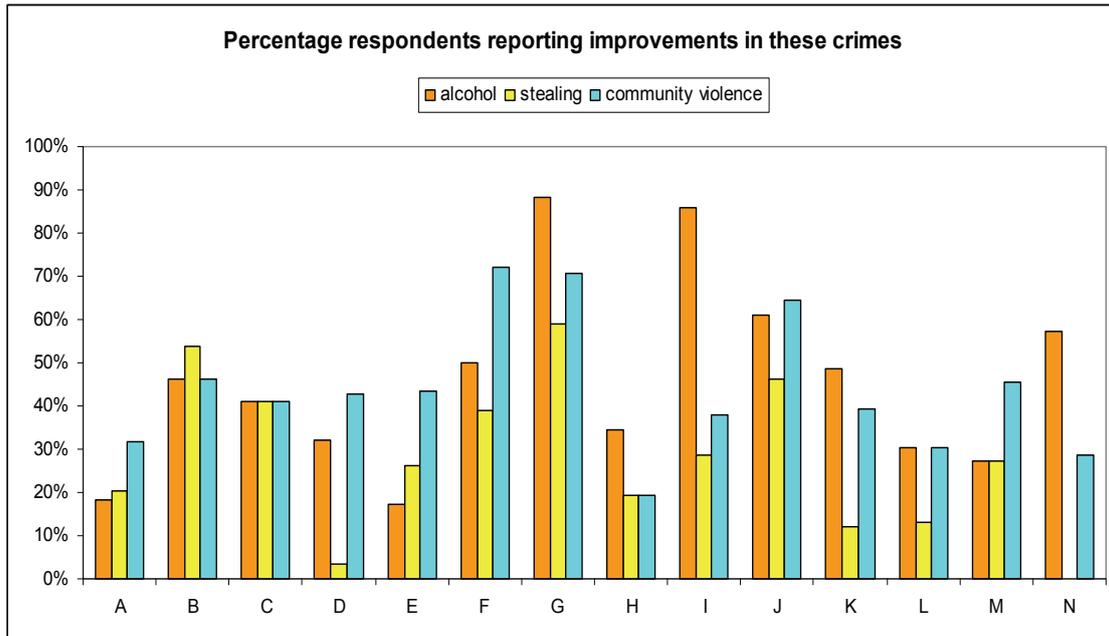


Figure 6: Percentage of respondents reporting improvements in select problems in their community.

Here we can see the perceived changes in a few key crime problems across the communities. As mentioned, there are high variations between communities where only a small minority – or nobody – believed certain crimes have improved, and communities in which large numbers of people have seen an improvement. The majority of people (around two thirds) perceive crimes to have reduced in communities F, G, I and J; but in other communities i.e. A, D, H, L and M only small minorities (30% or less) have perceived reductions in crimes in their communities. Also not shown on the chart is those who believe crime has increased since the police have arrived, particularly significant in communities H and L, for which only a few percent of net respondents believing certain crimes (particularly marijuana) have improved in their communities. Also important to note is the way that the perceived increase in different crimes for each community varies widely; reported improvements in stealing, for example, are generally far less that reported improvements in alcohol.

Key factors in crime reduction

If we look at the table on pages 74 to 78 comparing various elements of policing practice to crime reduction in all the communities, we see that there is no factor that all communities share; each of them has its own story¹⁴. Community F appears to have had large reductions in crime because of active policing by officers stationed there, including a willingness to prosecute, and because of high crime rates to begin with. G's reasons are less clear, but some of the police officers stationed in the community conducted foot patrols and the community got to know those officers well. The presence of an Aboriginal Community Police Officer (ACPO) may also be a factor. In Community I, the OIC had a history of working in Aboriginal communities, put a lot of work into building relationships

¹⁴ However, low crime communities do, according to the research, share certain features; principally strong local Aboriginal leadership, and small size. This is consistent with existing literature with regards to other parts of Aboriginal Australia. See Wilson (1982). These are not by themselves sufficient i.e. there a small communities with high crimes and communities with strong leadership with high crimes, but where both are present, there appears to be lower crime rates, according to the survey.

with senior elders of the community and this resulted in high levels of trust and police cooperation. The police there were also active in carrying out roadblocks and searching vehicles for alcohol. In Community J the OIC appeared to work hard and committed to active policing, they had lived in the community for a relatively long period and had already worked in the local area, The OIC also appeared committed to assist people to get driving licences and attend court.

Only one of the 3 top ranking communities had what might be termed ‘culturally appropriate policing’; two of the four had significant complaints of culturally inappropriate police behaviour; two of the four also had indications of ‘factional capture’ of the police by certain family groups within the community (see the discussion pages 155 on for more about this issue). Interestingly, it does not appear that there is a close relationship between high levels of reductions in certain crimes and culturally appropriate policing. However, the research indicates that cultural appropriateness has a relationship with community trust of the police, which has a direct effect on police work, for example, answering questions, and a willingness to go to the police with a problem. This issue is discussed further on the next page. Whilst cultural appropriateness may not be necessary to reduce some crimes, there is a commonality in police practice in those communities, not explicit in the comparison chart, to do with police ‘involvement’.

Involvement, the common feature of communities with high crime reduction rates, means police who built relationships with community members through talking, getting to know people, and involvement in community activities beyond playing sport with children. For example, in community C, ‘He [the OIC] comes into our houses and has a yarn with everyone, ladies, kids’ and ‘He’s involved with kids - picks them up and brings them home.’ The danger of this is, as mentioned, what can be termed ‘factional capture’ – in short, when police appear to listen to, and trust, certain families more than others, which is often used by those family groups to their own advantage in sophisticated community politics. At the same time, as mentioned, where this ‘factional capture’ occurred, improvements in crime rates were still high. It appears that the benefits, in terms of reducing crime, of building relationships with local people across the community outweigh the dangers of the police being ‘captured’ by a section of the community. At the same time, factional capture does lead to an alienation of a section of the community and lower approval ratings.

The other common feature is *active policing* – police who are seen to work hard at their job; either through responding appropriately to all reports of problems to them, or who are out and about in the community regularly. It is significant that community G, despite significant issues with factional capture and culturally inappropriate police behaviour there, was the only community in which there were reports of police doing foot patrols around the community, rather than driving around in cars. In Community I, a relatively low crime community, the dispersed population meant that local conflict was less visible, but they spent their time in building relationships with senior people; and so were active in a different way. Note that active policing is not the same as ‘overpolicing’, a concentration on public order offences, discussed further on pages 39 on. It is also worth noting that the most common complaints regarding police – intrusive searches of houses and bags – were largely absent from the communities with the greatest reductions in crime.

Underpolicing

Whilst, there were no factors common to all communities that reported large improvements in crimes, there were clear factors common to all communities that reported few improvements in crimes. Communities A, H, L and M all shared an important feature beyond low reductions in crime – they all had significant reports of underpolicing. Underpolicing is explored in more detail in part 3. Underpolicing took two forms according to respondents of the survey. The first is a failure by police to respond to crimes, particularly family violence¹⁵, for example:

When there's a big disturbance the police wait an hour or so before responding. They don't come when [people at the women's centre] call them, or if they do come it's too late - it's all over. We don't bother to call the police anymore. We don't know what to do.

People also complained about where the community wanting police help with a problem, but the police leaving it up to the community because it was 'too hard' was another complaint; "hard to get the police to investigate...We had a big meeting about the break-in, police should provide some help to the community". The second manifestation of underpolicing was when large numbers of people saw the police as doing nothing apart from sitting in the office all day e.g. "Just inside the house [station]. We don't see them much. They just do one round [car patrol] and then stay in the police station." Large numbers of people in all the communities with little perceived reduction in crime mentioned this and it appears to be a significant recurring element from the research. Community D, the final community reporting low reduction in crime, did so because it already had low crime rates prior to the establishment of the police station.¹⁶

One last point to make regarding perceived crime reduction in the surveyed communities is that effective police work may not lead to reductions in crime because of socio-economic factors that 'force' (or, to borrow a term from Althusser, 'overdetermine') the individual to commit a crime despite its illegality, the individuals belief in the (lack of) wrongness of the act, or fear of punishment. Socio-economic factors will vary from community to community, but traffic offences are the standout example of how people often have little alternative to drive unregistered cars or without a licence, for example, to access the clinic to obtain food, attend funerals and so on. Again, this is discussed in Part 4. Given high poverty rates, low literacy rates and distinct cultural imperatives including a pre-existing body of law, this is particularly relevant to Aboriginal communities in the Northern Territory. Communities with low crime rates (again, presumably due to socio-economic/cultural factors) previous to the NTER, like B and D, reported low reductions in crime despite what may be effective policing

Culturally appropriate policing and trust

The previous section noted how culturally appropriate policing did not have a relationship with perceived reductions in crime in the community; however, it appears from the data that it does have a strong correlation to levels of trust in the police, as

¹⁵ In contrast, in two of the four communities with the highest crime reduction rates, F and J, there were significant reports of the police responding properly to family violence issues.

¹⁶ In addition to the factors mentioned in footnote 8 above i.e. small size and strong local leadership, it was significantly the only community with an establishment serving alcohol. The community also had high approval ratings for police presence and police work.

measured by whether survey participants would respond to the police coming to ask questions about a problem, and the likelihood of them reporting a problem to the police if they were a victim of crime.

Communities A, B, D, E and I are all characterized by both a relatively high likelihood of people responding to police questioning (above 10% of survey participants would answer police questions about someone else in the community, or above 50% would answer sometimes); at the same time there was an above average chance of people directly contacting the police if someone is the victim of a crime (At least 27% of respondents would either phone the police or go to the police station if they were a victim of crime)¹⁷. All of these communities are characterized by the police respecting sacred sites and ceremony. Generally the police in these communities also did not subject community members to intrusive searches of houses, including viewing sacred objects. Police generally took some direction from senior members of the community, for example, in not using pepper spray, or not going to sacred areas. Police in these communities, apart from community A¹⁸, took the time to build relationships with senior members of the respective communities.

Conversely Communities K, L and M, are characterised by both a low likelihood of people responding to police questioning (0-3% of people would respond to police questioning about someone else in the community) and a below average chance that people would directly contact the police if they were a victim of crime (below 27%). All these communities have multiple complaints of inappropriate police behaviour and police dealing with problems inappropriately. For example, in Community K, there was a death which the community attributes to inappropriate police behaviour. They are also characterized by complaints about unresponsive police, and police appear to be less active than in other places. There is a kind of '*mutual disengagement*' in which community and police do not communicate or interact with each other. Aboriginal people have a number of options for dealing with disputes and problems, and will switch to other methods of dealing with them if they feel the police are not responsive to their requests. For example, a participant in Community D explained that (referring to the police in a neighbouring town rather than local Themis police), "We had a problem with that other family for 5 years, we tried to get police involved, but the police didn't help us. it's sorted now both sides of the families". In Community K local people almost exclusively now work with Night Patrol to solve disputes. Low levels of trust also appear to have some relationship to police conducting intrusive house searches, including the handling of sacred objects and rough treatment of the owner's possessions. These issues are discussed further on pages 52 onwards below.

Without this trust and willingness by the community to talk to the police, answering their questions and going to the police when an incident occurs, the police are limited to public order policing, such as arresting people for drunk and disorderly behaviour, or concentrating on traffic offences, a hallmark of what the literature calls 'overpolicing' (Cuneen, 2001a; HREOC, 2001). An example of this is community M. People there complained that the police seemingly had not attempted to solve break-ins at the community store, likely because nobody who responded to the survey indicated that they

¹⁷ These numbers are not particularly high in absolute terms, but in the absence of a comparison from the mainstream population, they can only be examined relative to each other.

¹⁸ Community A police, whilst not seen as culturally appropriate because his enforcement of traffic offences stopped people from going hunting etc., at the same time, was seen as knowledgeable about Aboriginal culture because he had grown up in a remote part of the Northern Territory.

would respond to the police asking questions, whilst at the same time respondents indicated significant community frustration with the police over their failure to intervene in this issue. Aboriginal people surveyed appear to have a clear idea of what culturally appropriate policing is, as a number of issues came up in a high proportion of surveys and/or communities. Most of these issues are discussed in further detail in the 'complaints' section below.

- Avoid interrupting ceremony; if it becomes necessary, a senior police member should negotiate with a senior member of the elders conducting the ceremony for access. (Communities C, J)
- Avoid going to sacred sites. Note that in the research, nobody complained about the police entering sacred sites (as opposed to ceremony) without permission.
- Aboriginal law has strong restrictions on access to private space stemming from the sanctity of the 'camp', which now means houses and yards. By far the highest number of complaints was of police entering this private space without permission, or without a consistent reason (Communities A, C, D, E, F, H, M and N)
- Similarly, certain people shouldn't see and/or handle private objects e.g. women's toiletries when searching bags, sacred men's objects for ceremony when searching houses and bags. Generally, people's possessions should be treated with respect. This has ramifications for searching both bags (Communities B, E, H, M, N) and houses.
- Modern items, in particular cars and firearms, are important in carrying out cultural activities, particularly, hunting, gathering bush medicines, looking after country, attending ceremony and so on. Consideration should be given to using police discretion in a way which allows people to continue in these activities, for example, allowing people to drive unregistered vehicles on bush tracks for hunting trips, similarly to the way in which non-Aboriginal people drive unregistered vehicles on cattle stations. (Communities A, F – see Community G for how police have dealt with this issue sensitively)
- Senior members of the community should be dealt with sensitively and in private, rather than be subjected to publicly humiliating behaviour, including shouting, the use of force and other dominance behaviour (G, M; see Communities E, H and I for how police have dealt with it appropriately).
- Carrying of spears should be permitted for ceremonial business and for hunting (E)
- The community should have an input into the direction of police activity and practices in that community. For example, Community E elders wanted police to avoid the use of tasers, which police have now largely done.
- Deal sensitively with young people who have little knowledge of the judicial process, and often are at risk of suicide (Communities K, L, M. In community G the police were very popular with young people because they dealt with them appropriately).

- Practice plain English (as one respondent mentioned – “KIS – keep it simple”), use translators which are acceptable to the person being questioned. Translators are para-professionals who will usually expect payment (E, L).
- Restraining orders (or domestic violence orders – DVOs) should sometimes be gender neutral – with people citing cases of where the wife has initiated violence. (Communities J, K)
- Be aware of community politics, including the family divisions; have regular contact with all families, ensure that all have a voice. Avoid relying on one person for information and translation. Avoid ‘factional capture’ (Communities G, J, K; see I, H for appropriate policing there). One of the things most valued about having police come in is that they don’t have ties to a particular family and can act neutrally.

What is interesting is that the list is much broader than cultural issues, and involves consideration of the political and economic aspects of life in the Aboriginal domain. There is a strong consistency between the aspects of appropriate policing that have emerged in this project and the content of the *Mutual Respect Agreement* (2009) between Ngukurr community elders and the police there, as part of a process of mediation between the elders and the community there. This suggests major commonalities between Aboriginal cultures in the Northern Territory and the way in which they believe the police should work *manymakum* (Yolngu languages) or *munungmunungku* (Western Desert languages) – i.e. “properly”¹⁹. Many, if not most of the points mentioned above are broader than just Aboriginal culture and comprise many of the features for the general concept of ‘community policing’ discussed in more detail in Part 3

There was a widespread call, both from large numbers of community members, and from police officers in their interviews, for some training for police in effective work in Aboriginal communities, sometimes referred to as ‘cross-cultural training’ (participants from communities F, G, H, I, K, L, M and N all mentioned that police should do this). Currently, the training which police receive prior to deployment appears limited, though note should be made of the NT Police’s Yidiyu initiative in this area. The research shows that being culturally appropriate allows the police to be more effective in their work. The research demonstrates that greater awareness and action in the area of culturally appropriate policing and the involvement of the community in determining police practices leads to greater response rates to police inquiries, with people more likely to report crimes and cooperate with police, and police are able to deal with a wider variety of crimes, particularly those which the police have not themselves witnessed.

¹⁹ It’s interesting to note the way in which Aboriginal law and culture is very similar to Western law/culture in its extent and content in a number of ways e.g. the importance of private space (particularly the house and yard), property, and gatherings, strong ‘duty of care’ responsibilities, contractual arrangements, gender differences, prohibitions on underage sex, care of young people, cultural permissiveness of violence in certain ritualized circumstances, the existence of senior people who should be treated with respect, the existence of a body of law, police, judiciary and punishment, and restraining orders. See *Raypirri Darra’ñur Romgurr Mägayakurr* (2005) at http://www.ards.com.au/print/yolngu_law.pdf for an overview of one set of Aboriginal legal statutes.

Useful cross-cultural training for police would be concerned with practical issues like the issues mentioned above, and would include holding effective community meetings, communication with people with low literacy and English as a Second Language (ESL), understanding Aboriginal ideas about private property, duty of care, practical gender differences, community politics and avoiding 'factional capture'. Education in areas of history and bushfoods, traditional areas of cross-cultural education, may be less practical and may be better conducted by the host community as part of local relationship building (as occurred in Community D).

Community approval of police presence and work

As mentioned in the Introduction, the survey was partly revised part way through the fieldwork in order to make it more effective in gathering the information. The questions regarding community approval of the police did vary between the two surveys. Thus in examining factors determining community approval of the police, we have two sets of case studies, examining slightly different things. Survey 2 examined people's approval of police presence separately from people's approval of how the police are working. Survey 1 examined how people's feelings about the police changed over time. Responses are grouped into positive, negative, mixed and neutral. Because of the relatively high number of communities surveyed, it is possible to draw comparisons amongst each group – Survey 1 and Survey 2.

Survey 2 then, as mentioned, firstly examined community approval regarding police presence – whether people wanted police living in their community as opposed to just visit when there are problems or to issue driving licences etc. As figure 7 shows, 75% of respondents indicated they were happy to have police living in their community, with 10% overall not wanting police in their community. Without having a comparison with mainstream communities, this figure is less meaningful, but it appears high. People talked about how they wanted police in their community to so they could "stop the violence and settle some of the drunks that are not controllable". As elsewhere, there was considerable difference between communities over whether people wanted the police there. 100% of Community B respondents wanted the police; 95% of Community E respondents wanted the police; no respondent in either community did not want the police there. By contrast, just over half of respondents in communities K, M and N wanted the police there, and around one third of respondents in these communities did not want a permanent police presence in their community.

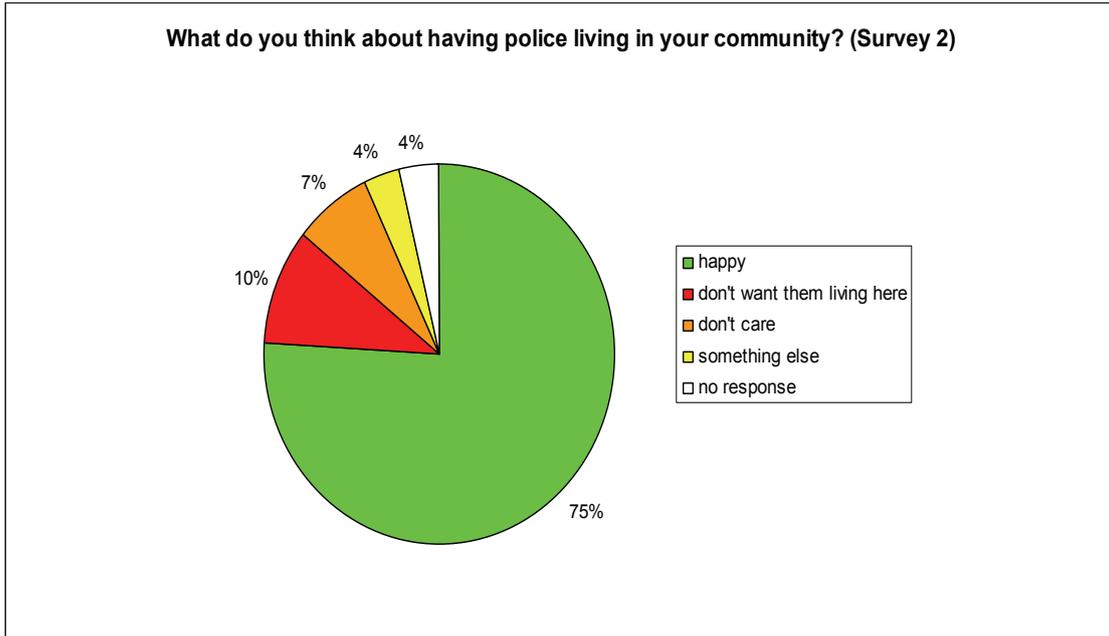


Figure 7: What respondents thought about having a permanent police presence in their community

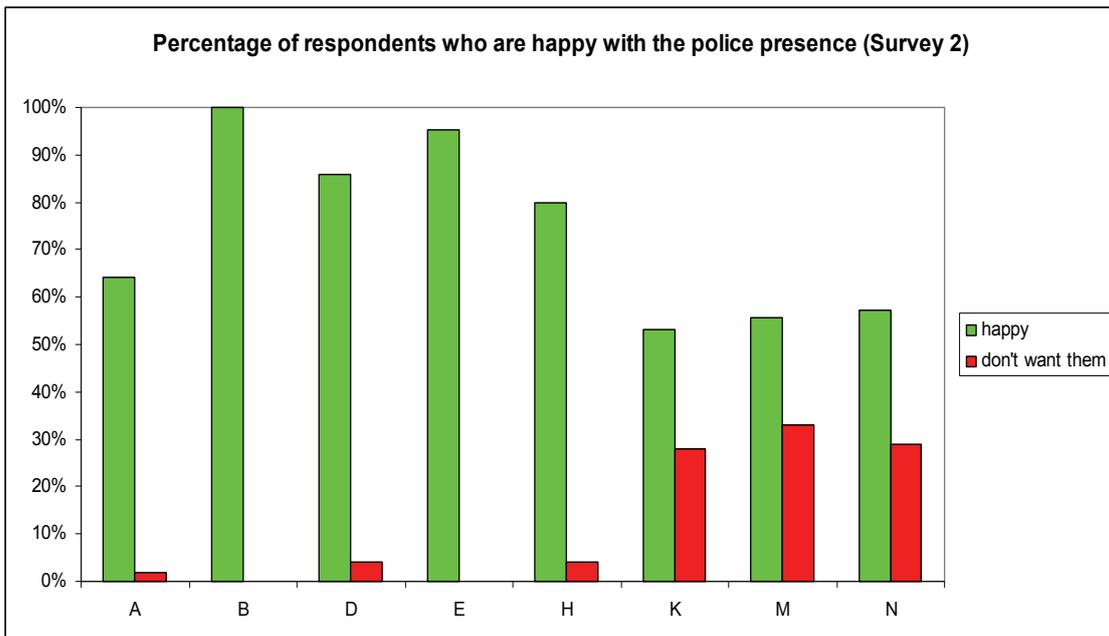


Figure 8: What respondents thought about having a permanent police presence in their community, selected responses broken down by community.

Importantly, in none of the communities which were asked this question was there less than a majority in favour of continued police presence. Amongst the communities not asked this question there was only perhaps one who might not have had a majority in favour of a continued police presence. Interestingly, crime levels were not a major factor in whether communities wanted a police presence. Two of the communities with a very high approval of police presence (above 85%) are low crime communities (B and D), and one has above average perceived crime levels (E). In the communities with both low

crime and high approval of police presence, police appear to have taken on more of a 'service provider' role similar to the community clinic or school; issuing driving and gun licences, being involved with the kids at the school and so on. People appeared to welcome this, seeing their presence as convenient, and didn't see the police as redundant or unwelcome despite little crime for them to deal with, e.g.: "Registering vehicles is good. Helping people get driver's licences is good. Sometimes bit friendly." Similarly, communities with a low approval of police presence – K, M and N also had varying levels of crime with K being a very low crime community and M is a relatively high crime community. (The data appears to indicate N is relatively high crime and has very similar characteristics to community M, however, it is hard to judge with certainty from the data as few surveys were conducted there). Interestingly, communities in the middle (A and H), with more ambivalence about police presence, were those with high crime rates but evidence of 'over-policing' e.g. a focus on enforcement of local traffic offences or intrusive police searches; suggesting that people recognised the need for a police presence because of high crime rates, but had mixed feelings about the police presence due to the way police have been working; a kind of 'can't live with you, can't live without you' belief.

Whilst crime rates are not closely related to approval of police presence, it appears community engagement is related to police presence approval. Communities with high approvals of police presence are those in which police consulted with elders and took direction from the community, including concentrating on community policing priorities like alcohol, violence and theft rather than on traffic offences. Communities with low approval of police presence were those in which police were inactive, failed to respond to reports of problems, and failed to engage with elders and take direction from the community. In the case of community K, the low approval of police presence appears to be linked to a death for which the community blames the police. Community K was also the only community in which significant numbers of participants saw the police as redundant due to their low crime levels and the high perceived capacity of night patrol there.

We can also compare data on perceived crime reduction rates with police presence approval rates, as touched on above. It appears that high approval of police presence is not closely linked to reductions in crime rates; high crime communities appear to recognize the need for police presence even if they have been less effective to date, or only effective in reducing certain problems (e.g. Community H; A in survey 1) or had a number of complaints about police behaviour. However, conversely, all communities with low approval of police presence had little reduction in crime as a result of that police presence. Again, police that appeared to be relatively inactive did not have high approval rates for their presence. Conclusions in this area are hampered slightly because survey 2 communities were not amongst those with the highest crime reduction rates.

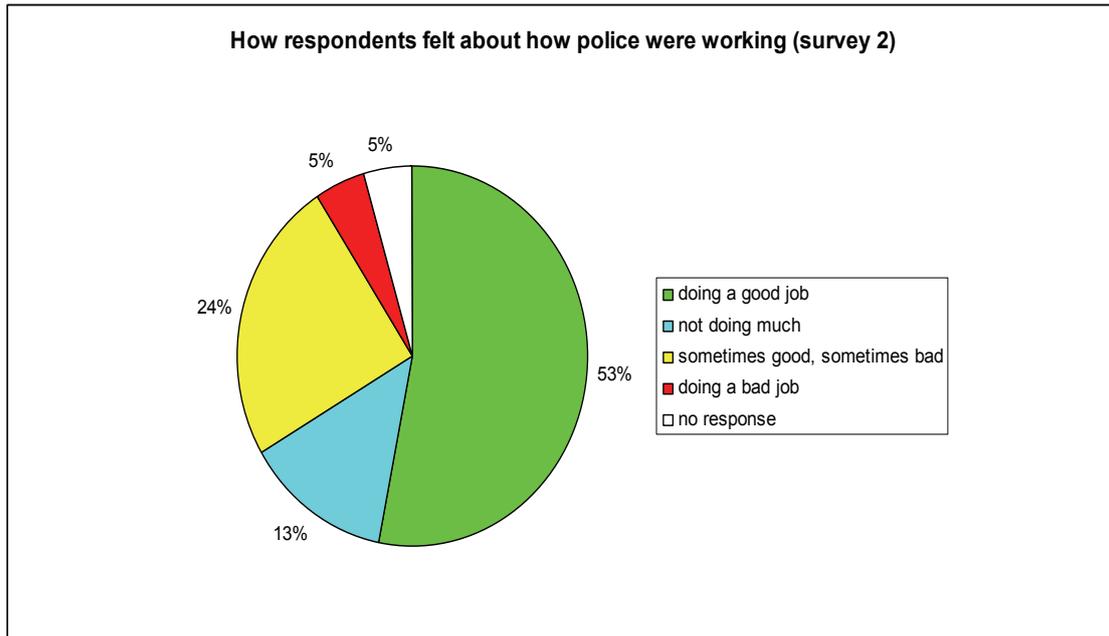


Figure 9: How respondents felt about the way the police were working.

Figure 9 shows how respondents feel about the way in which the police are working in their community. The proportion of people who are happy with how the police are working, compared to having the police living in their community, are significantly lower (53% compared to 75%); however there are also less people who think the police are doing a bad job than those who do not want a permanent police presence living in their community (5% compared to 10%), which is interesting. One quarter of people have mixed feelings about the way the police are working and 13% thought the police weren't doing much. It is interesting to compare these results with more general statistics regarding police satisfaction as published in the NTPFES annual report (07/08 figures shown). According to that report, 68% of people nationally felt satisfied with the police; and, locally, 59% of people in the NT felt satisfied with the police, with survey respondents skewed towards urban areas. Interestingly then, remote Aboriginal community approval of the police is reasonably consistent with the figure for NT urban areas, and less than for other police forces nationally.

As with other data, there was very large variation between communities, from 85% approval in Community D to 11% approval in community M (see figure 10 below). At the risk of appearing slightly confusing by presenting too much data at once, figure 10 breaks the results down into separate communities. Again, as mentioned, there is no positive correlation between high rates of crime reduction and high job approval. Of the high approval communities, D and E both reported low reductions in crime but have high approval rates; B had a medium level of crime reduction and a high approval rate; in other words, people recognize when police are doing a good job by being active and involved in the community even when, for other reasons, crime rates have not significantly decreased. However, where crime reduction had been low or very low, these were low levels of approval, consistent with police inactivity and mutual disengagement as discussed elsewhere.

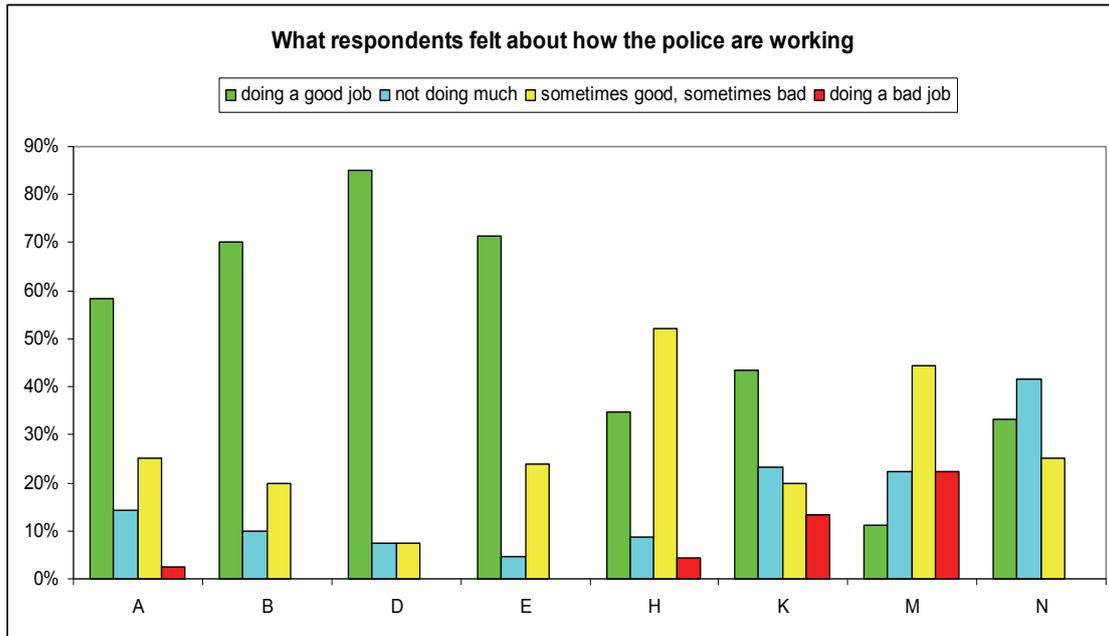


Figure 10: Results broken down by community showing what respondents think about the way the police are working in their community

Community H again is interesting because here police engagement with the community, taking direction from elders, and the presence of an ACPO has not led to reductions in crime; people are therefore very ambivalent about how the police are working. 'Sometimes good, sometimes bad' was the highest response, partly because of search issues and partly because people thought police should be more active in dealing with crime. In addition, the new OIC's efforts on community engagement may have yet to filter through into higher approval ratings. Communities K and M, with the most serious complaints about the police, have the highest proportion of those who believe the police are doing a bad job. Similarly 'not doing much' responses were highest in communities where people believed the police had not responded to problems reported to them, and had not engaged with them.

As mentioned, survey 1 measured people's feelings about the police over time (see figures 11 and 12 below). The proportion of people with positive feelings about the police is between the approval rates for police presence and police work from survey 2 as discussed above. Although the number of people reporting feeling happy or safer has slightly increased over time in absolute terms, the proportion of people providing no response to the second question is significantly lower and, if we just examine responses, the proportion of people reporting positive feelings has decreased (from 81% with no response removed to 74% with no response removed). Whilst overall there has been little change and the proportion of people with positive feelings appears high, this picture is somewhat misleading because there are big differences between communities (in particular, Community L had a lot lower approval rates than elsewhere) and big fluctuations at the community level in feelings with regards to the police. In 4 of the 6 communities there was a greater than 25 point change and in 2 of the 6 communities covered by survey 1 a greater than 50 point change.

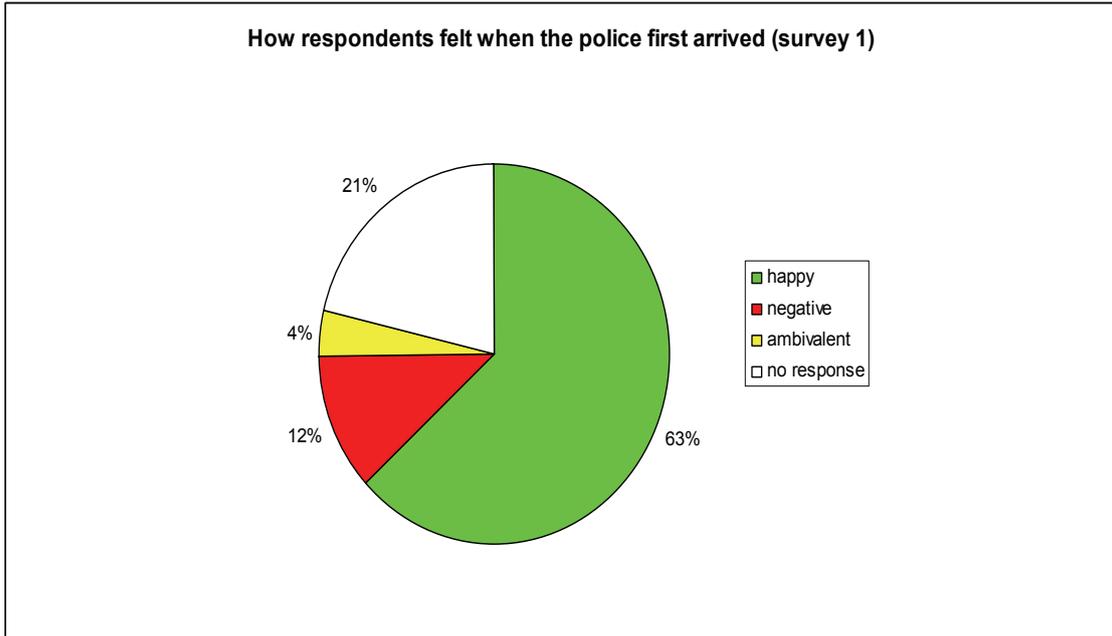


Figure 11: How respondents felt when the police first arrived in their community (aggregated into positive, negative, and mixed feelings)

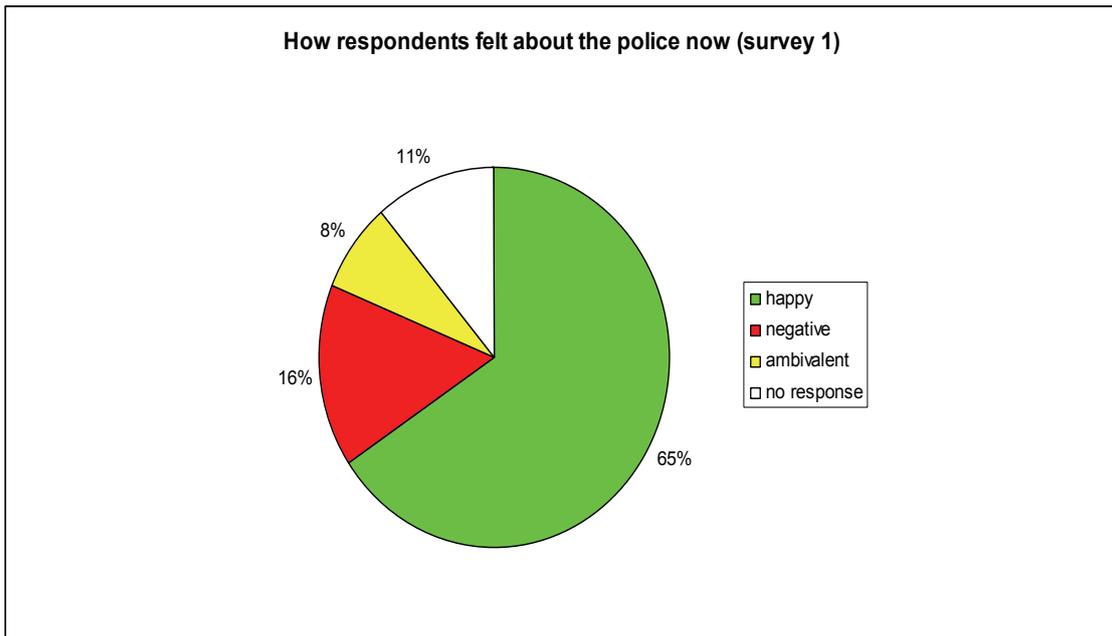


Figure 12: How respondents felt about the police at the time of the survey (aggregated into positive, negative, and mixed feelings)

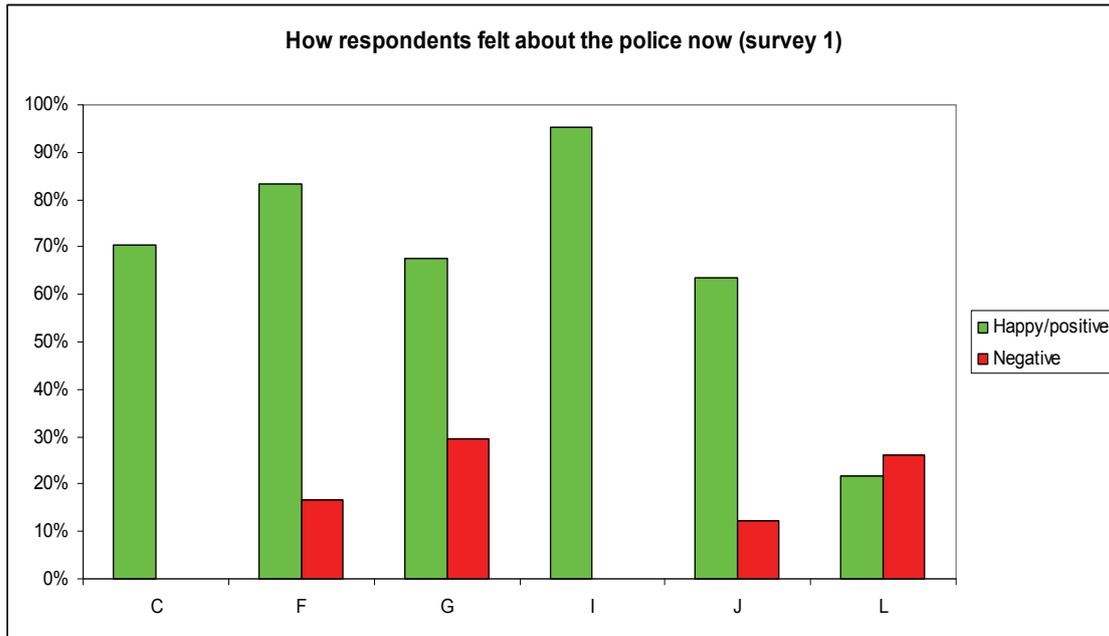


Figure 12: How respondents felt about the police at the time of the survey, selected responses broken down by community.

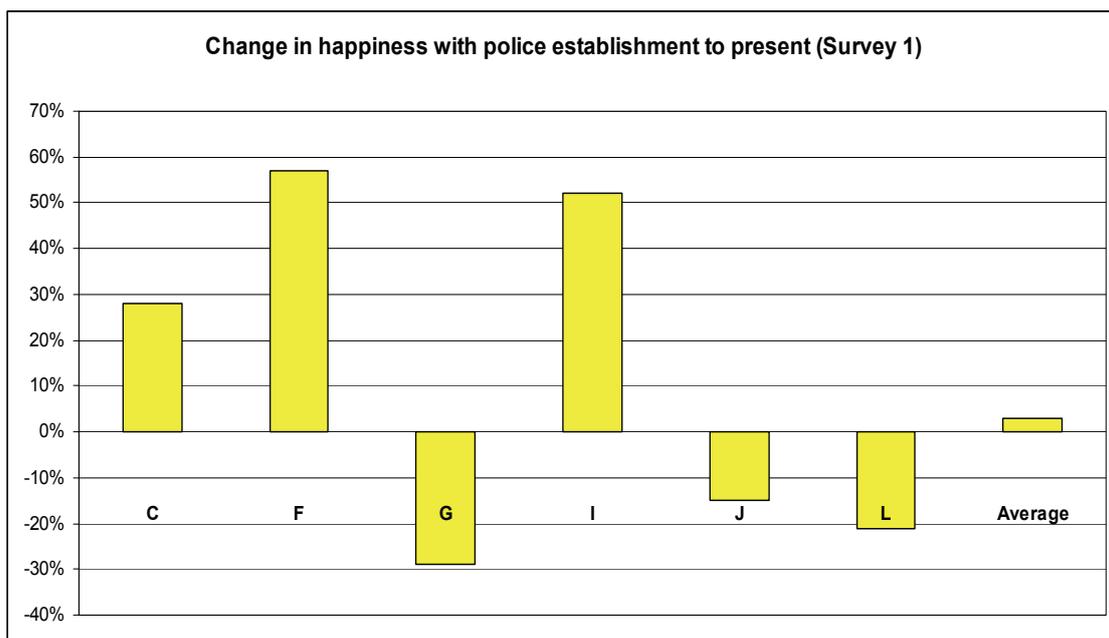


Figure 13: changes in positive feelings with regards to the police, broken down by community (percentage of current positive feeling less percentage of positive feelings when the police first arrived)

From the graphs in figures 12 and 13, we can see three clear groups of communities;

1. Those with high approval rates (70%+) and high increases in those approval rates over time (above 25%) i.e. Communities C, F and I.
2. Those with reasonably high approval rates (above 60%), some negative feelings about the police; but that these approval rates have significantly fallen over time;

i.e. people were happy when the police arrived, but are less happy with them now, i.e. Communities G and J.

3. Community L, with very low positive approval rates (22%) and with negative feelings about the police greater than positive feelings about the police; and with a decline in positive views about the police over time.

In common with other measures of police success, Group one communities (C, F and I) have had divergent experiences with the police; police practice is different in each community. C reported high levels of police engagement and moderate reductions in crime; F reported high levels of police activity, low community engagement and high reductions in crime, with some reports of violence and over-policing; I reported high levels of community engagement by the police, active policing in certain areas, and high reductions in certain crimes (principally alcohol).

Group two communities, i.e. those with reasonably high approval rates, some negative feelings about the police, and a decrease in approval rates over time, have several factors in common; principally high reductions in crime since the police have arrived; significant negative incidents (the interruption of men's ceremony to arrest someone in the case of J and the perceived public humiliation of a family in community G); significant evidence of factional capture in both communities; and indications of relatively high levels of police activity and involvement. It appears that where police are active, involved, and reducing crime rates, approval rates will remain reasonably high, despite significant incidents involving the police; but that these incidents and factional capture will alienate a section of the community who are not necessarily those who are repeat offenders, and is likely to also include those vulnerable to crime (particularly because the families which lose out because of factional capture of the police by police are often the most marginalised; poorest English, lowest literacy, etc.; and therefore the most vulnerable).

Group three, as mentioned, consists of one Community L, which has significant commonalities with communities M, K and likely N in Survey 2. In common with them, L has police that appear to be relatively inactive, with reports of them failing to respond to reports of problems including domestic violence and failing to be active in checking for alcohol in cars coming in to the community. Police at the time of the survey appeared not to have made efforts to get to know people in the community. The police presence there has made little impact on crime in the community. Unlike similar communities with low approval rates, however, there were no reports of serious incidents regarding police in Community L.

In summary, it appears that high approval levels are not closely linked to reductions in crime, or culturally appropriate policing, but they are linked to active policing and involvement in the community. Communities in which crime is falling and police are active or engaged in the community can survive incidents involving the police, which alienate a section of the community rather than the whole community (however, those alienated are likely to be the most vulnerable section of the community). Communities in which police are inactive, fail to respond to reports of crime, and fail to engage with the community have the lowest approval rates. Just because crime is low in a community does not mean that people do not want police, provided they engage with the community, respond when required, issue licences and so on.

Court Volumes

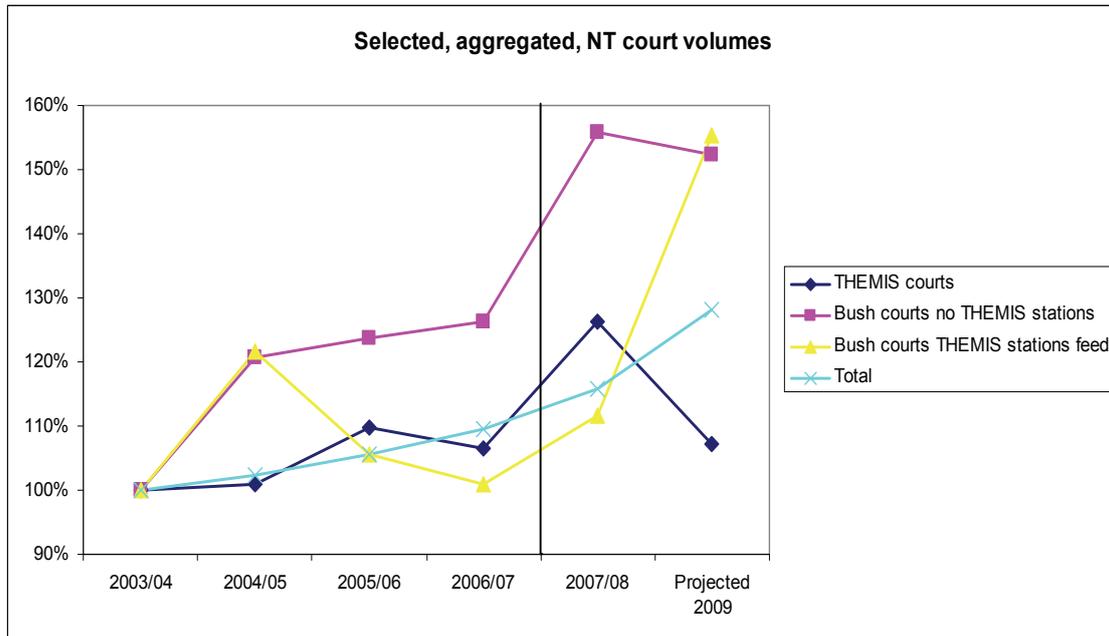


Figure 14: Changes in court volumes for aggregated categories of courts, 03/04 to 08/09 projected. The black vertical line marks the start of the NTER

The graph in figure 14 shows changes in court volumes over time in the Northern Territory, with the black line marking the start of the NTER. The data sheds little additional information on Themis policing, particularly as most Themis communities do not have courts and that there were high variations in court numbers between individual courts. The volumes by themselves cannot generally show whether increases in matters coming before the courts is due to increases in crime, changes to legislation increasing criminalization, or increases in police activity and care needs to be taken in interpreting them.

However, it does appear that the long-term upward trend for court volumes accelerated after the NTER; in many communities, whether this is due to increased crime, changes in legislation, or increased police presence is somewhat unclear. However; we can examine those courts without an increase in police (stations) in the communities sending matters to them versus those with an increase. The large increase in projected 08/09 figures in courts with the new stations is perhaps due to the time it took to establish stations; by contrast the community courts without new stations showed a large initial increase, and then a projected leveling off. Because this increase is not due to increased police presence, the increases in court volumes in this last group of communities suggests that the NTER laws have had a major impact on increased criminalization of Aboriginal people. This picture is complicated by both the Violent Crime Reduction Strategy with a zero-tolerance policy on DVOs, which started around the same time, and renders this conclusion unclear. It should be noted, however, that increases in court volumes after the start of the NTER would have been much higher overall if not for a fall in court volumes in Darwin in this period.

COMPLAINTS AND LAW

As discussed, support for the presence of police in the communities surveyed was widespread, at about 75% of respondents. Support for the way police have been working, by contrast was lower, and there was often ambivalence about the work of the police, with people identifying particular police practices as undesirable. The nature of these complaints varied greatly, from not responding to reports of violence, to searches of people's houses and bags. As examined in this section, some of these practices are due to police exceeding their powers, others are not and are either an example of legislation targeted at Aboriginal people which gives police additional powers, or police racially targeting Aboriginal people for enforcement of the law. Without looking at the individual case, it is often difficult to determine general rules on the limits of police powers, many of which may have to be tested in court. Where Aboriginal people feel that they have been treated inappropriately or discriminatorily, it is suggested that they seek legal advice from NAAJA or CAALAS. The following information is a discussion of the issues only.

This section does not deal with one of the most widespread complaints – the police not acting on a report or a complaint, or the police in certain places not being active in policing the community. This has been discussed on page 52 above and also in the discussion section on page 153 which seeks to explain this behaviour. Also not discussed in this section is issues with the justice system more generally, particularly the distance required to travel to court (sometimes hundreds of kilometers), the perceived failure of the prison system, and the absence of punishments which Aboriginal people saw as effective, for example, community work orders which utilized cultural punishments of shaming. This is looked at in more detail on pages 167.

Police entry into houses and yards, including searching houses

Many complaints centre around the intrusiveness of the police; the most common was regarding police coming into houses to conduct searches without permission, but also extended to (in particular) people's bags. Complaints about police entry to houses came from communities A (one), C, D, F, H (few), K, L (one), M and N, e.g.: "Trespass into your yard. They go in house without asking". Aboriginal people have a strong sense of private space. This is discussed in detail in *Yuendumu Everyday* (Musharbash, 2009) (which provides much insight into Aboriginal people and houses in general) and one participant in the research took considerable time to explain these laws to the researcher. The strong belief in the privacy of the house and the yard has evolved from the strong rules around who can and cannot enter a particular family group's camp²⁰. Aboriginal sense of private space is as strong as (or stronger than) in western cultures and contained in Aboriginal law in a similar way to private property being codified in Western law. Aboriginal people are aware of provisions in Australian law that reinforce this common value in both cultures, for example:

Some people not happy about police. Meeting a couple of months ago, shouting at them to go away. Because police coming into houses without warrant paper. That's against our law.

²⁰ The work for camp and the work for home are the same in Aboriginal languages e.g. *ngorra* in Western Desert Languages and *wäŋa* in Yolngu languages.

This private space extends to yards and also to homelands/outstations, where small family groups live in a set up in some ways analogous to a cattle station. In communities F and N there were complaints of police driving into outstations. During the research a number of people asked about the law and when police have the legitimate right to enter houses and when it is considered trespassing. People appear to be unsure of their rights in this matter. The status quo, in which many police appear to go where they want, when they want, without limitations, appears to be a clear case over 'overpolicing' in which police have more power to intrude into the lives of Aboriginal people as compared to non-Aboriginal people.

Unfortunately, this is a real 'grey area' under the law. Neither NAAJA or CAALAS, as far as can be determined, has ever taken on a police complaint in this area; because nobody has requested them to put in a police complaint regarding this type of behaviour. Senior criminal lawyers at the organisations are unaware of a case in which evidence was ruled inadmissible because it was obtained when police were trespassing as opposed to have a legitimate right to be there. Nevertheless, there is a general belief that police have some limitations over entry; this is defined in law (principally the NT Police Administration Act). However, much of the confusion stems from two ways of defining private (or limited access areas) versus public (or general access) areas in law; one is to do with land tenure; the other is defined by the physical infrastructure i.e. what is built on the land. Lastly, there are considerable extra powers given to police enforcing alcohol restrictions in general proscribed areas, which are limited to Aboriginal areas.

Police powers in the Northern Territory are generally defined under the Police Administration Act. Section VII of the Act defines police powers for search and entry:

126. Power to enter to make arrest or preserve peace.

(1) Where a member of the Police Force has, under a warrant, power to arrest a person, he may enter a place, by force if necessary, and with such assistance as he thinks necessary at any time of the day or night or between such times as may be specified in the warrant, for the purpose of arresting the person if the member believes on reasonable grounds that the person is at the place.

(2) Subject to subsection (3), where a member of the Police Force may, without warrant, arrest a person, the member may enter, by force if necessary, and with such assistance as he thinks necessary, a place at any time of the day or night for the purpose of arresting the person if the member believes on reasonable grounds that the person has committed an offence punishable by a term of imprisonment exceeding 6 months and that he is at the place.

(2A) A member of the Police Force may, by reasonable force if necessary, enter a place if he believes, on reasonable grounds, that:

(a) a person at the place has suffered, is suffering or is in imminent danger of suffering personal injury at the hands of another person; or

(b) a contravention of an order under the *Domestic and Family Violence Act* has occurred, is occurring or is about to occur at the place, ...

(2AA) A member of the Police Force may, having entered a place under subsection (2A), search the place for firearms or offensive weapons if the member believes, on reasonable grounds, that:

(a) a firearm or offensive weapon is located at the place; and

(b) to leave it at the place could place a person in imminent danger of suffering personal injury or an aggravation of personal injury already received..' (NT Police Administration Act)

The word 'place' is referred to repeatedly in the Act. 'Place' is defined by the Act as 'vacant land, premises; an aircraft, ship, train or vehicle. In turn 'premises' is defined as a building or structure; a part of a building or structure; and land on which a building or structure is situated.' (s116). Clearly then the police can enter someone's 'premises' to:

- Arrest someone whom the police have a warrant for if they have a reason to believe they are there.
- Arrest someone without a warrant if there is a reason to believe they have committed a serious offence.
- Intervene if they have a reason to believe that someone is injuring or about to injure someone else
- Intervene if they have a reason to believe someone is breaking or about to break a Domestic Violence Order (DVO)
- Intervene if they have a reason to believe there is a weapon there that someone is likely to use to injure someone.

So what are reasonable grounds (described in the bullet points above as 'reason to believe')? The definition of 'reasonable grounds' is as follows: A suspicion based on facts which, objectively seen, are sufficient to give rise to an apprehension of the suspected matter: (*R v Chan* (1992) 28 NSWLR 421 ; 63 A Crim R 242.) To say that a suspicion is reasonable does not necessarily imply that it is well-founded or that the grounds for suspicion must be factually correct: (*Tucs v Manley*). Also there may be different impressions produced from a single set of circumstances which can all be said to be reasonable: (*R v Chan* at 438). However the facts must do more than merely give rise to conflicting inferences of equal or even lesser degree of probability where the choice between them is no more than a mere matter of idle speculation or mere imagination: (*R v Chan* at 437). Police generally therefore need reasonable grounds only and not certainty to enter a house without a warrant for certain things i.e. some arrests, violence and DVO breaches. Police do have powers to enter premises without warrants for one other reason in the act:

119. Urgent searches without warrant

(1) A member of the Police Force may, in circumstances of such seriousness and urgency as to require and justify immediate search or entry without the authority of an order of a court or of a warrant issued under this Part, without warrant...(a) enter a place at which he

believes, on reasonable grounds, that anything connected with an offence is situated and search the place.

So if there is an offence committed (and under section 116 the person has been informed that he will be charged with an offence), police can search the house without a warrant if there are reasonable grounds to believe something connected with the offence e.g. illicit drugs is located there, if it is justified by seriousness and urgency. Additionally, police can enter onto private property and apprehend a person if the police reasonably believes they have been intoxicated in public and are now in private property or are trespassing (s128). Lastly, there is a provision in the Act for police to conduct searches without a warrant for an explosive or offensive weapon in certain circumstances i.e. if the police suspects (a lesser standard than 'believe') on reasonable grounds it is there:

119AA. Search without warrant for explosive, offensive weapon etc.

(1) This section applies if a member of the Police Force suspects on reasonable grounds that an explosive, offensive weapon or ammunition, the possession of which is unlawful:

(a) is in the possession or control of a person in a public place; or

(b) is being carried in an aircraft, ship, train or vehicle; or

(c) is at any other place.

(2) The member may, without warrant:

(a) search the person, clothing worn by the person and property in the person's immediate control; or

(b) enter the aircraft, ship, train, vehicle or *other place* [emphasis added] and search the place and any person found at the place, clothing worn by the person and property in the person's immediate control.

This is the general situation for the Northern Territory as a whole. However, this rule is complicated by two issues with respect to Aboriginal people: Firstly, that the NTER legislation and the NT Liquor Act gives police extra powers. At least, this is the rule in general. However, the issue is complicated because the NT liquor act and the NTER legislation gives the police extra powers in proscribed areas²¹. The NTER legislation modifies the Police Administration Act regarding offences in relation to alcohol in a prescribed area (Northern Territory National Emergency Response Act, s18). 'Division 4 of Part VII of the Police Administration Act applies to each prescribed area as if it were a public place.' In other words, if the police have reasonable grounds to believe that someone is drunk in their home (rather than in public), the police can enter the house without a warrant and apprehend the person. In addition, the NT Liquor Act also now applies, as a result of the NTER, to all Aboriginal land rather than to either the edge of the community, or a few kilometres out from communities, as before, and as previously

²¹ As declared under the NTRER Act 2007; in general, all Aboriginal land.

decided by the community themselves in their application to the NT Licensing Commission. The NT Liquor Act Section 95 gives police the following power with regards to entry to houses and alcohol:

- (1) An inspector may, without a warrant:
 - (a) do 1 or more of the following if the inspector reasonably suspects a relevant offence has been, or is being or likely to be, committed:
 - (i) enter and search an area of land (whether or not it is the general restricted area).

With Section 73 of the act defining area of land thus: (1) area of land includes premises on an area of land.

Secondly, that the complicated and varied legal status of Aboriginal land may mean that either; the police are already 'on the premises' by virtue of their permanent presence on Aboriginal land; or that all Aboriginal land, including the homes on it, is public land for the purposes of police carrying out their job on it

The Police Administration Act deals with the distinction between private and public areas in terms of what is or isn't an offence, but in terms of the difference between police rights of access it is largely silent, instead referring to 'premises'. 'Premises', however, includes the land on which it is situated. What is clear is that police are allowed on Aboriginal land through the minister's ability to issue permits for government officials to enter and remain on Aboriginal land. The Families, Housing and Community Services and Indigenous Affairs and Other Legislation Amendment Act (Emergency Response Consolidation) Bill 2008 Section 70(2BB) states that:

- The Minister may, by writing, authorise a specified person, or any person included in a specified class of persons, to enter or remain on:
 - (a) all Aboriginal land; or
 - (b) particular Aboriginal land (which may be community land).

This provision also exists in the *Aboriginal Land Rights Act* which similarly grants the Minister the authority to identify exemptions to the permit requirement; including those for members of Parliament (s7). Section 6 of the *Aboriginal Land Rights Act* provides that the 'Minister may issue permits to certain government employees.' This gives the Minister authority to provide all Territory and Commonwealth employees with permits, including the police. In addition, the *Interpretation Act* (Northern Territory) 2008 section 59A(1) provides that the definition of public land below does not exclude Aboriginal land where no leasehold interest exists:

- Where by or under a law of the Territory a right, privilege, obligation or liability is expressed ... to a public place, public street, public road, place of public resort or other place, however described, open to or used by the public or to which the public has access, whether as of right or on the payment of a fee or other charge, that reference includes, and shall be deemed always to have included, any place which but for the fact that it was on Aboriginal land within the meaning

of the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth, would have been included in such a reference, and even though that Act of the Commonwealth or the *Aboriginal Land Act* limits the persons or classes of persons who may enter and remain on that Aboriginal land.

Accordingly, police generally have powers of access on Aboriginal land that they would have on public land. The conditions for entering private land do not apply to police on Aboriginal land. Therefore, remedies for trespass under statute and common law are not available (for an example of civil damages for trespass see *Plenty v Dillon* (1991) 171 CLR 635, 640-41 (Mason C.J., Brennan and Toohey J.J.)) to Aboriginal land in general. It is unclear whether this includes houses and yards. There is a belief amongst some people that public areas are limited to communities and roads linking them that are maintained by the government. There is no provision in law, as far as the research has been able to determine, that restricts public areas (and therefore police access) in this way. It should be noted that whilst the distinction between public and private has less importance in determining police access, is still has some importance in determining whether a particular thing is an offence or not (for example, public drunkenness as opposed to being intoxicated at home).

While police can generally go anywhere on Aboriginal land without having a reasonable belief about a crime, it is somewhat unclear whether this includes houses and yards. With regards to homeland communities, while there is a desire from respondents to the survey that police do not go along side roads leading to homelands, and the police may be willing to observe this direction, homeland community members have no legal protections for this. It may be that if the Land Council leased the land to an Aboriginal corporation controlled by homeland community members, the police would lose that right of general access (without 'reasonable belief') to the area.

As mentioned, distinctions between different places that the police can and cannot go on Aboriginal land is a grey area in which Aboriginal organisations themselves do not always have a clear understanding. Given that unfair or unwarranted searches of houses (including rough handling of possessions and in particular viewing of sacred objects) is the most common complaint emerging from the research, it would suggest that it might be worthwhile for advocacy organisations, for example NAAJA, CAALAS and the Land Councils, obtaining some clarity up this issue. At present, NAAJA and CAALAS have not been approached by individuals who wish to make a formal complaint in this matter, but the research has been informed that they would be interested to take on a complaint or civil case in this area. In the meantime, communities may wish to include rules on access to certain areas within any community justice agreements made with the police, similar to Ngukurr.

Entry to ceremony/sacred areas by police

In general, police obeyed community direction with regards to not entering sacred areas, however, there were a number of complaints regarding police interruption or interference in ceremony in communities I, J and N; with the most serious being that of a female police officer interrupting men's ceremony to arrest someone with a warrant out for him:

Policewoman entered the business. Women have only certain places they can go. The cultural side is a big thing. They took the elder up to

the police to explain what's happening but she still came anyways.
And that wasn't the first time.

This is very similar to an incident in 2008 in Lajamanu which received a certain amount of publicity, including releases by the Central Land Council (2008b); a video on Youtube from the elders of the community²² and a discussion of the issue from a legal viewpoint in the article 'Unresolved Tensions: Warlpiri Law, Police Powers and Land Rights' (Anthony and Chapman, 2008).

In respecting community directions to avoid sacred sites, the police are following legislation. Section 69 of the *Aboriginal Land Rights* (Northern Territory) Act 1976 and section 33 of the *Northern Territory Aboriginal Sacred Sites Act* both contain prohibitions on entry to sacred sites. This provision states that it is an offence (with a maximum penalty of 12 month's imprisonment) to enter a sacred site, unless issued with an Authority Certificate, which includes the police. The fact the police are subject to the *Northern Territory Aboriginal Sacred Sites Act* (NT) was reinforced in 2005, when section 4 of the Act was amended to 'clarify the liability of the Crown to prosecution'. Section 4 now makes it clear that the Crown and the legislature are bound by this Act.

Regarding entry to ceremony in general, Anthony and Chapman (2008) believe that the definition of sacred sites includes those places which are being used for ceremony. Different ceremonies may or may not occur on sacred sites or just a community area, but then those places may become sacred for the purposes of performing ceremony. Again, this appears to be a grey area, and again, people may wish to pursue a test complaint or include provisions for this in any community justice agreement between the police and the community.

Various police breaches of their Code of Conduct/NT Police Custody Manual

There were a number of complaints of the use of inappropriate force. Complaints occurred in communities A (in particular), C, E, F, G, K and N. These complaints were both raised by the victims themselves and also by others in the community on their behalf. Here is one:

My brother had a foot injury, sore from being hit, he couldn't walk properly. They dragged him to their Toyota, they were really rough. He wanted them to take him to the clinic, but they wouldn't take him and he had to wait one night in the cells for his wife to take him to the clinic. He wanted to make a statement so they would let him go but they didn't want to talk to him.

It should be noted that, along with other issues, people were quick to identify that it was only some or a particular policeman that was 'rough' with people. As such, the use of inappropriate force does not appear to be a widespread or endemic problem across Taskforce Themis police station, unlike for example, what people believe to be unfair or unwarranted searches of houses and bags. What constitutes inappropriate force or assault is not discussed in the Police Administration Act; 'reasonable force' is mentioned several times in conjunction with certain duties but not generally. Guidelines on the use

²² http://www.youtube.com/watch?v=XsJBTEC_i8c

of force appear in the NT Police's *General Orders* and the NT Police Custody Manual. In general, what constitutes reasonable force in the circumstances has been established through torts, i.e. through the courts, rather than established through legislation. NAAJA and CAALAS have made a number of successful police complaints in this area.

Complaints are either made to the Ombudsman, or, if sufficiently serious, a civil case brought in the courts. If a complaint is made to the Ombudsman, this gives directions a police body, the Ethical and Professional Standards Command of the Northern Territory Police to investigate the case, under the supervision of the Joint Review Committee. The Northern Territory is unique in having the police investigate all complaints against themselves; all States in Australia have independent bodies, such as Queensland's Crime and Misconduct Commission. In addition, disciplinary action against police found to be at fault can only occur within 6 months of the incident according to the *Police Administration Act*. In the other alternative, a civil action must be commenced within two months otherwise it is out of time (this is only for commencing an action in relation to the police, generally the limitation period is three years). This presents a significant challenge for Aboriginal people living in remote areas to meet these deadlines.

Verbal abuse was reported in communities A, C, G, K, L and N. Communities D and F had numerous complaints about verbal abuse from police stations in communities near to them but not from the police stationed in their community. Verbal abuse or being 'cheeky' in Aboriginal English is likewise undefined in the Police Administration Act. NAAJA and CAALAS have put in complaints, accepted by the Ombudsman, which have included substantiated cases of verbal abuse. Verbal abuse by the police is in breach of the General Order: Code of Conduct and Ethics and contained in the *NT Police Custody Manual*. Similarly to the use of inappropriate force, complaints about verbal abuse by police were limited to certain individuals and did not appear to be endemic, widespread or generalised.

People mentioned instances of police drink-driving in communities A, D and J. A in particular had multiple complaints of the more serious issue of police drinking and then working, including breathalysing and booking people for drink driving whilst themselves drink-driving: 'police go to [place] and drink alcohol: while drunk they then put road block up and book Aboriginal people.' Breaching the police Code of Conduct and Ethics, this is an issue whose occurrence is not unsurprising given that Aboriginal people themselves have severe difficulties in finding a legal way to drink responsibly and return home; it is symptomatic of the current situation, in part due to legislation, and in part due to the absence of effort to provide safe places to drink alcohol and alternative transport means, and is discussed in detail as part of these broader issues elsewhere.

Taser and Pepper Spray Use

Taser use by police came up in only two communities. In one place, there was a concern about what was perceived as a dangerous and unnecessary use of the device:

when tasers came out [used], people were scared. No talk about what taser is for or what it does. Police only explained afterwards. Tasers was used inside the compound with a locked gate. We could see him using it. He had just come out of surgery in Adelaide hospital.

In another place, their people understood why it was used, and prior to the incident, people had been shown it. There was a call there for more information about it:

The policewoman did show people about the taser. Then she was going to do a demonstration but didn't. Now people are saying wrong that people got shot. What happens if they used a taser on people with heart problems? We understand that she is a woman and has to use her taser to protect herself. But we want to know about, maybe in a police video showing weapons they use to protect themselves.

Four of the communities reported some use of pepper spray by the police. In two of those, people expressed a desire that the police avoid using it. In one of these, it appears the police have largely stopped using it in response to the request of the community; "First time they used to spray them, we told them not to use it, they stopped now."

Searches of bags and cars

There were a large number of complaints from communities H, M and N regarding police searches of bags. Like intrusive searches and police entry, by car or on foot, to what Aboriginal people (in common with Western culture) consider private areas, and unlike complaints of alleged violence or verbal abuse, this is a problem that people identified with the police generally rather than with particular individuals. Here is an example of a response regarding this issue:

Why have the police taken on the role of customs or border control? That happens at the international entry, like Sydney. We have cultural things, private things. It's causing us shame the police seeing our private things. They search the bags of people coming from the plane. This is across [the region], all the [Aboriginals].

Here is another one:

Police are [good], they help us but they do check our stuff on the plane, its not good. We don't like them to check our personal stuff, especially ladies. No man's allowed into our stuff. It's shameful. Men search women here, its not fair.

People identified two types of things that the police shouldn't be seeing; women's toiletries and personal items, which male police should not see, and ceremonial objects, which uninitiated people should not see. This causing of shame by public searches is, in Aboriginal culture a punishment; people were upset that the police were, in effect, punishing innocent people. A small number of people did, however, express the view that they were happy with the searches. People did not have major complaints, by contrast, about the searching of cars. People generally only complained when searches of cars were rough; e.g. "[the police were] searching the car by throwing everything out of it, not just having a look through, even though we just had shopping." People did complain about having their cars and alcohol seized unfairly; this is discussed further below.

As mentioned above, police in the Northern Territory have general powers throughout the Territory to search without a warrant under Section 119 of the *Police Administration Act* 'in circumstances of seriousness and urgency'; they may also search clothing and property in the immediate control of a person 'reasonably suspected' to be connected to

an offence; and they can seize anything they find to be on 'reasonable grounds' connected to an offence or endangering public safety. However police now (due to the *NT Liquor Act*, and its modification by the *NT National Emergency Response Act*) have additional powers. It is important to note that these additional powers to search property, cars and so on do not only apply to Aboriginal land but in practice to anywhere in the NT, provided it occurs in enforcing the law with regards to restricted areas. Under the NT Liquor Act:

95. Powers of search and seizure

(1) An inspector [including the police] may, without a warrant:

(a) do 1 or more of the following if the inspector reasonably suspects a relevant offence has been, or is being or likely to be, committed:

(i) enter and search an area of land (whether or not it is the general restricted area);

(ii) stop, enter, search, remove and retain a vehicle, vessel or aircraft (whether or not it is in the general restricted area);

(iii) stop, detain and search a person in connection with the exercise of a power under subparagraph (i) or (ii);

(iv) search a thing in connection with the exercise of a power under subparagraph (i), (ii) or (iii); and

(b) seize a thing found in connection with the exercise of a power under paragraph (a)(i), (ii), (iii) or (iv) that the inspector reasonably believes to be related to a relevant offence.

(2) In addition, an inspector may, without a warrant:

(a) do 1 or more of the following *on a random basis* [emphasis added] for the detection of a relevant offence that has been, or is being or likely to be, committed:

(i) stop, enter, search, remove and retain a vehicle (whether or not it is in the general restricted area);

(ii) stop, detain and search a person (whether or not in connection with the exercise of a power under subparagraph (i));

(iii) search a thing in connection with the exercise of a power under subparagraph (i) or (ii); and

(b) seize a thing in connection with the exercise of a power under paragraph (a)(i), (ii) or (iii) that the inspector reasonably believes to be related to a relevant offence

That is the police may conduct random searches, including of bags, anywhere in the NT. In addition they can confiscate alcohol and cars for an offence that has not been committed, if they think they offence will be committed. Participants in the survey reported seizure of cars and alcohol was reasonably widespread, even when they never intended to consume the alcohol inside the restricted area. There were numerous complaints of police taking alcohol off people outside a restricted area, that people were intending to consume outside the restricted area. There were several reports of police waiting outside the bottleshop in Alice Springs and taking alcohol off people as soon as they left the bottleshop. This is despite the Act having provision for people to transport alcohol across restricted areas. To reiterate; people are being in effect punished, often with severe financial consequences, for crimes they have not committed, and may never have intended to committed. People questioned why their cars were confiscated when planes were not.

Enforcement of Traffic Offences

Many complaints and comments were from people regarding police enforcement of traffic offences, either driving an unregistered motor vehicle or driving without a valid driver's licence. Many people believed that they should be able to drive unregistered or unlicensed in two places: within communities and on Aboriginal land on bush tracks and so on for hunting purposes. Here are three examples:

We're always getting booked. He charges us big money. This place is bush but we can't go for grocery, hunting. We should be allowed to drive unregistered locally. I've got my old Toyota, if he sees me he'll still book me...Can't even drive my truck around to round up horses [on my outstation] they still pull you over.

And:

We sick people would like police to overlook sick people driving from home to medical and shop to drive unregistered car. If [we] drive outside of community they book us. We had a policeman who let us drive for food and medical and warned us about driving outside of community. Give us sick people a bit of space...It's only a little community; people learning to drive should be allowed to drive around so we can learn how to drive around in the cities. We really like going fishing and hunting but the police won't let us because our cars are unregistered. They should let us go hunting because that's what we were doing before the police were here.

And:

They check up on unregistered cars. There was a rule here people could drive unregistered vehicles to the roadhouse and back. There's a [cattle] grid that you couldn't go past. You can't even go hunting with unregistered cars. Now they are checking cars before the grid, even for people getting firewood.

There are no transport alternatives to driving a private motor vehicle in most remote communities; the difficulties of owning and maintaining a drivers licence and registered vehicle are numerous in remote communities. This issue is discussed in detail in Part 4,

rather than here. For the reasons discussed in that section, police use their discretionary powers to enforce the law in some places in a sympathetic manner with regard to motor vehicles, often giving warnings rather than prosecuting. Where police do this, it should be noted that they may be exceeding their discretionary powers. As the head of Taskforce Themis pointed out:

There's a number of significant ongoing legal issues associated with those types of offences. Especially if there's been an accident involving somebody who's driving an unregistered, uninsured motor vehicle, who has been allowed to continue to drive that vehicle because the police officer is using his discretion. Now, what I'm saying to you is that if you're caught driving an unregistered, uninsured motor vehicle. The police officer must stop you driving an unregistered, uninsured motor vehicle. He doesn't have any choice about that.

However, this is not the case everywhere. In some communities, people explained how there were few cars left. People also discussed cases of the police leaving people by the road in a place which may be tens or even hundreds of kilometers from a settlement, or even water, particularly in desert regions. The law itself also imposes harsh penalties. For example driving disqualified, understandable in certain circumstances and reasonably common in some communities, entails up to 12 months in prison (s31, NT Traffic Act).

Regarding the issue of police booking people for driving unregistered vehicles on outstations or off-road for going hunting, or for stock work, as discussed above, it appears there is a clear difference between the treatment of Aboriginal people and non-Aboriginal people in an analogous situation. The non-Aboriginal equivalent of a homeland may be a cattle station; there access is restricted, and it is owned by an individual or corporation; anecdotally people drive vehicles on the station without licences or that are unregistered. Either there is a legal difference between the distinction between public and private areas on Aboriginal land compared to non-Aboriginal land; or else there is racially targeted enforcement of the law by police with regards to Aboriginal people.

Legally, as with the issue of police access to private areas without a warrant and as discussed above, there is a somewhat grey area surrounding whether all, some or no Aboriginal land is classed as public for the purposes of motor vehicle offences. Unlike with searches, which refer to premises, the NT Traffic Act refers to public street or place, thus:

s. 32 Driving while not licensed

(1) A person shall not drive a motor vehicle on a public street or public place (a) unless that person (i) holds a licence" And

s. 33 Driving unregistered vehicle

(1) A person shall not: (a) drive; or (b) employ, permit or suffer a person to drive, on a public street or public place a motor vehicle which is not registered.

According to the Act (Part 1 Preliminaries):

public place means a place (other than a public street) open to or used by the public or to which the public is permitted to have access whether on payment of a fee or otherwise, but does not include a track in an enclosed area used for motor vehicle or bicycle racing or speed trials.

public street means a street, road, lane, thoroughfare, footpath or place open to, or used by, the public and includes a road on land leased under the *Special Purposes Leases Act* for use as a road.

There is some ambiguity in law over whether Aboriginal land is then deemed public, given that access is restricted to Aboriginal people and those with permission, via the permit system, to access the land. The land is owned in the western property system by land trusts, and in the Aboriginal property system, it is owned by traditional owners, however defined by that group (see Keen (2004) for more discussion of Aboriginal landholding systems). The Land Councils, charged with carrying out their duties under the Aboriginal Land Rights Act, clearly believe it is private land; "Aboriginal land is private land. It is not Crown land, nor public land."²³ However, the issue may be in the definition of 'public'. The NT's Interpretation Act attempts to define this issue of public places with regards to Aboriginal land. Under section 59A(1) of the Interpretation Act:

Where by or under a law of the Territory a right, privilege, obligation or liability is expressed or implied to be acquired, accrued or incurred by reference to a public place, public street, public road, place of public resort or other place, however described, open to or used by the public or to which the public has access, whether as of right or on the payment of a fee or other charge, that reference includes, and shall be deemed always to have included, any place which but for the fact that it was on Aboriginal land within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth, would have been included in such a reference, and even though that Act of the Commonwealth or the *Aboriginal Land Act* limits the persons or classes of persons who may enter and remain on that Aboriginal land.

The wording is somewhat unclear as to then which sections of Aboriginal land are and are not public. While it appears from this Act that roads on Aboriginal land are public, For Aboriginal land outside the communities, there is a lack of clarity over whether this is therefore public land. On balance, however, it appears that they are deemed public for the purposes of police powers and what is and is not an offence,²⁴ and the police are

²³ http://www.nlc.org.au/html/visit_general.html

²⁴ Although not discussed in detail in this report as to why ostensibly private Aboriginal areas are made public through law and through policing practices, it is interesting to compare this with what academia has to say on this issue, for example:

‘The treatment of reserves as public spaces shows the paradoxes of policing a colonial order. Aboriginal people were excluded from participation in the social life

treating this land as public land as they exercise their duties. For those people who wish certain areas to be designated private, it appears that where land is subleased by the land trust to another organisation, including, for example an Aboriginal corporation, it may cease to be public land, in which case police powers of entry and certain requirements under the Motor Vehicles Act, for example, the requirement to have a valid driver's licence, would not apply.

As with the NT Liquor Act (which gives special rights to recreational fishermen on Aboriginal Land), the NT Traffic Act gives special dispensation to pastoralists, whose vehicles do not have to be inspected to obtain registration (under section 137B of the Motor Vehicles Act), and also gives special dispensation to the motor sports community. It appears that powerful special interest groups have special privileges in the law with regards to their use of motor vehicles, but that those least able to afford to comply with the Act, and those whose own personal existence is threatened by complying with Act, do not get this sort of special dispensation.

Complaints over police discriminatory behaviour

Although not as widespread as general complaints regarding intrusive policing, a number of people from different communities mentioned about how police treat Aboriginal and non Aboriginal people differently. These complaints were regarding two issues: one is to do with the policing of traffic offences, and one to do with only Aboriginal people being searched by the police for alcohol. Regarding traffic offences, including drink driving: "White folk are let off the breathalyzer. The [Aboriginals] are always straight in the lockup." Where police are exercising their powers in general, for example, in a town when stopping cars to check registration, and only Aboriginal people are stopped, they may have a case for racial discrimination either under the Commonwealth or the NT's discrimination acts.

However, a number of complaints referred to police only searching Aboriginal people for alcohol, not non-Aboriginal people, exercising their power under the NT Liquor Act as extended by the NT National Emergency Response Act (NTNER Act), for example:

Aboriginal people are searched and charged but not [non] Indigenous people. Its not fair. Happens everywhere. Permits are not checked for non-Aboriginal people. People our color are always checked. Contractors should not be allowed to have grog. People have to be equal, one rule. Coming in on the plane, Aboriginal people are checked but not [non-Aboriginals]. [Non-Aboriginals] should get checked on day trips. Same across [the region] - we have to protect our community.

Because the Racial Discrimination Act (RDA) has been suspended for the purposes of the measures contained in the NTNER Act, police conducting random searches of cars, bags and other personal items in a racially discriminatory manner i.e. searching Aboriginal people and not non-Aboriginal people are not in breach of the RDA. While the legislation itself does not refer to the race of a person, only to the area (all Aboriginal land under the NTNER Act), at the same time, though police may be targeting only one

of public places, yet their own lives were rendered 'public' through policing mechanisms.' (Cuneen, 2001).

race within that area, a complaint cannot be made regarding this. The Labor government has promised to reinstate the RDA sometime in 2009²⁵, and if this happens, it may be that in future, people can put in a complaint regarding racial targeting of searches for alcohol.

Problems with contacting police

A number of people across the communities raised problems with contacting the police when there is a problem. In many of the communities few people have landlines and there is no mobile phone coverage. Public payphones are often broken. Often, few people have cars and the station is some distance away; up to five kilometers away from some dwellings in one of the community. Themis police are often away from the community; either doing roadblocks, away on time off, or because of police shortages in neighbouring communities.

Where people go to the station to report a problem, people often reported being unsure if they are there, e.g. "We don't know if the police are here or away. We go down to the station and nobody's there. We want to know who else we should contact." When the gates are locked, people lack a way of getting inside the compound to the buildings. The stations lack intercom or similar and people resort to chucking rocks on the roof of the buildings. People are often unaware of the phone number of the local police; so far as the researcher has been able to determine, it is not displayed on a sign or at the stations.

Shooting Animals

Shooting animals was not a widespread complaint – there were only a few incidents referred to in complaints, however, at the same time, this issue is worth mentioning, partly because it is a not-widely known aspect of Aboriginal law and culture, and also because it has come up with reference to the police in other circumstances. It should be noted that not all shooting of animals is offensive to Aboriginal people – far from it. Indeed, police hunting and bringing back shot animals, particularly cattle ('killer'), emu, kangaroo and buffalo was very popular, something that police did regularly, and was cited as a positive thing in a number of communities, particularly when it was brought back for elderly people within their community.

However, there are three incidents which occurred with the police which deliver insight into Aboriginal culture. Firstly, the police shot a dog in one community:

A child was bitten by dog, just a small scratch, not serious one. Other family reported that dog to the police. Police came and took the dog away and shot it. We were upset because dog had traditional name and spirit. It caused great sadness and hurt. Police don't understand the significance of the animals and the pain caused when they are killed.

Again, what is striking about this story is the similarity between Aboriginal and 'mainstream' culture – the pain that people felt about a pet dog being shot would be universal to any pet owner. Aboriginal culture also gives dogs special status, including

²⁵ <http://www.abc.net.au/news/stories/2009/02/27/2503040.htm>

ceremony and skin names. While the number of 'camp dogs' is a problem in many communities, other communities have been successful in reducing their numbers, for example, by the community getting together and agreeing to a maximum number of dogs people are allowed to have, desexing of dogs and so on (see e.g. Irving (2002) for a discussion of this).

Another issue raised was police shooting feral animals:

Police go around shooting camel without permission. They're only supposed to shoot them if they are lame. We reckon camels are alright, shouldn't shoot them. Camel is alright, horses alright, still get rain, still get grass.

While non-Aboriginal people are happy with feral animal control, at least some Aboriginal people see it as wasteful – because animals are shot and the carcass just left there. The best insight into these values is Sansom (2001). He discusses how wasteful killing of animals, without the carcass being used for a purpose, or with only part of an animal taken and the rest left, is against Aboriginal law. To Aboriginal people, it is further evidence that white people have got no law. In this context, one last story (not reproduced verbatim because it was discussed with a translator) was from one old man. He was outraged that police injured a kangaroo in their car and then left it there to die without killing it. He was offended that what he saw as the police not looking after one of their two (along with the emu) totemic animals. He had determined that the kangaroo and emu were the police's totemic animals because they are featured on the police badge. For him, if the police did not even look after the totemic animals they had responsibility for, how could they act lawfully on other issues?

Lack of communication – police activity

Communication, or a lack of it, has emerged as one of the major issues from the research. Police communication with the community varied; some put a lot of effort into it, some did not, partly because it was easier for police to engage with the community in some places than in others. Communication²⁶, including the community having input into the focus of the police and ways in which police worked in their communities, was something that emerged as directly contributing to higher levels of trust, higher likelihood of community responses to police inquiries, more likelihood that communities would report a problem to the police, and police being able to act effectively on a wider variety of crimes, including more 'private' crimes, which would also include sexual abuse.

Since the implementation of the shires, and the accompanying demise of the councils, there has been in many places a gap in local leadership; as the focus of decision-making has moved away, communities have less meetings, which has meant less

²⁶ It should be noted that language barriers varied from community to community. Some communities did have difficulties; young people, often the most vulnerable, were those with the highest English language barriers. Police did often use local people as translators, but there were a number of complaints that people weren't paid for providing translation services. In some communities, the police used night patrol to translate; in some places, night patrol were happy to do this and saw it as part of their role; in others, the reverse was the case. In the survey, relatively few people reported that they didn't understand the police; the maximum was 7% in one community; however, there is likely to be a bias in participation in the survey towards those who are comfortable engaging with non-Aboriginal people, including using English, even when Aboriginal translators and facilitators are present.

communication between the community. As one person put it, “Community have no say any more, we don’t have meetings any more”. Even where there has been communication between the police and other government bodies and leaders in the community, information has not filtered down to the ‘ordinary’ people who feel on the outside and left out of things. Likewise, there is sometimes “not good communication between families”. Here is how one person, working for night patrol, described the lack of communication between people regarding law and justice issues:

Shire, police, night patrol, Justice of Peace, we’re supposed to be together, doing report on break-ins. There’s not good communications at the moment. Not sure who is working between community and night patrol... We’re not involved with [community justice forum], don’t know much about it... They don’t let family know before taking people to Darwin, to court and jail.

Without this communication and cooperation around justice issues, it is difficult for communities to form an effective response to dealing with the issues. Where communities have tried to form committees or forums to deal with these types of issues, people are unsure as to what power they have:

I’d like to see [the community safety and justice forum] recognized by the NT government and Federal government. I need to see there has to be a social reconciliation between [the community safety and justice forum] and western legal system. There has to be a proper function between the two parties if they have to become one; find solutions to make the law more understandable to [Aboriginal] people... Old people didn’t understand what [Non-Aboriginals] is going on [about]. If everyone can understand what’s going on they can find solutions not just here but everywhere.

I need to know the root of the [the community safety and justice forum], is it properly recognized by Australian law? Police need to understand how local law functions, so it would help them on day-to-day things in the job, we have like restraining order in their culture, people get offended when someone enters their boundary.

Problems with communication – practical/physical aspects

Communication problems were also on a more practical level. Many people reported the police were hard to physically contact to report a problem – the gates are often locked, and for people who have gone to the station there is often no physical way for people to contact the police, for example:

My kid was being picked on. I went to the police but the door was locked. No way to contact them. Why are they locked up all the time? I wanted to sort the problem out through the police. People can’t go and hit someone else, they might get into trouble too.

People reported throwing rocks onto station rooves to try and contact the police in the absence of any other means. Perimeter fences and gates keep people away from the buildings themselves when they are locked. In many of the communities surveyed, there was no mobile reception and few people who owned land lines. Stations were often

kilometres from some of the houses; many of the public phones were broken; there is no way to contact the police. Phones in these stations divert to police car radios or to regional police. There was a divergence in knowledge about the number to call for local police; some explained how they had the number at home, others wanted to know the local number. Most police stations had little in the way of signage providing information and this is an area that may be improved.

Community Law and Justice Groups

Whilst it is not a legislated requirement that communities have input into the direction of policing, there are two grounds for communities to have input into the priorities and methods of police in Aboriginal communities. The first is to do with the mandate of Taskforce Themis. As mentioned on page 24, Taskforce Themis' objectives, as stated in the Police Annual Plan and as determined by the Police Commissioner are:

1. Establish peace and good order in the Prescribed Communities
2. Intervene with targeted and controlled responses, in collaborative partnerships, to identified priorities, including:
 - Child abuse
 - Personal and domestic violence
 - Alcohol and other substance abuse
 - Pornography
3. Through structured community engagement, provide opportunities for the citizens to influence policing priorities in their particular community.

Point three clearly mentions 'structured community engagement' to 'influence policing priorities'. A community justice committee or similar is clearly then an appropriate structure for the police to engage with the community; this may be a part of the recognition and authority that people desire and want to know about. Certainly also 'collaborative partnerships' are not limited to non-Aboriginal service providers and thus this is another way in which the community can have influence on the nature and direction of police practices in Aboriginal communities. The second basis for community to have authority to influence police practices is in the police *Custody Manual Standard Operating Procedures*. Section 24.1 of Appendix A (p16) states that:

The Commissioned OIC and OIC of a police station are to make efforts to establish protocols at local level with Aboriginal Legal Aid *or any other relevant Aboriginal organization* [italics added] and any local hospital or community health centre. Protocols, among other things, should address questions of:

- a) Notification of Aboriginal Legal Aid when Aboriginal people are arrested or detained. Prior to contacting an Aboriginal Legal Aid Organization, members must obtain the permission of the person in custody. All attempts to contact Aboriginal Legal Aid, and the permission of the person in custody to do so, are to be recorded on IJIS.
- b) The circumstances in which Aboriginal people are taken into protective custody.

- c) Concerns of the local community about local policing and other matters.
- d) Processes which might be adopted to enable individual Aboriginal communities to participate in decisions as to the placement and conduct of members on their communities.

Clearly then, 'protocols' can be determined by interaction with a local structure like community justice committees, and are potentially wide-ranging in their scope, including when people are taken into protective custody ('the lock up'), how police work, where the police work and what crimes they are active in addressing. Although not explicitly mentioned, this is likely to include when and how police use their discretionary powers, for example, to refer a problem to families, elders, or indeed the community justice/safety committee for resolution.

It should be noted that the establishment of a community justice/safety committee is both in the recommendations of a number of important inquiries, and has proven very successful in practice in the NT when it has been given support. The Royal Commission into Aboriginal Deaths in Custody (RCIADC), reporting to parliament in 1991 made 339 recommendations on Aboriginal people and the justice system. Recommendation 188 was:

That governments negotiate with appropriate Aboriginal organizations 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 police or program or the substantial modification of any policy or program which will particularly affect Aboriginal people. (Johnston, 1991, vol 5, p111)

As part of establishing a framework for negotiating with Aboriginal communities, the RCIADC recommended that independent Aboriginal Justice Advisory Councils (AJACs) were set up. The Northern Territory AJAC was established in 1996, was defunded and is not currently operating. Previously, as part of its response to the RCIADC, the NT government created and implemented the Aboriginal Law and Justice Strategy, which was operational from 1995 to 2005. According to Ryan (2000, p n/a), the most complete documentation of the strategy and its implementation:

It was designed to provide a comprehensive, whole-of-government response to Aboriginal law and justice issues at the Territory, regional and community levels. It focused on three main areas:

1. Establishing consultative and participatory decision-making arrangements at Territory and regional levels;
2. Developing policy for priority and emerging issues; and
3. Developing community law and justice plans.

In practical terms, two facilitators were funded; rather than being Territory-wide, the strategy was only ever implemented in the area which now approximately covers the current Western Desert Shire. According to those involved, it met with great success. For example:

In the last three years at Ali-Curung, women and men working together have been able to reclaim the safety of women at Ali-Curung. We know, as Aboriginal women, as wives and mothers as grandmothers and aunts that the violence that happened against women a few years ago has now stopped...Assaults against women on our community have gone from being common to being uncommon. Violence against women has gone from being part of community life, to being something that is now out of place in community life. How has this happened? We are still married to the same men. Our men still drink; there are still three roadhouses within 80 kilometers of our community. There wasn't one single thing that happened that changed things but a lot of things that all contributed to this change.²⁷

Unfortunately, rather than being extended Territory-wide, the program and the strategy was instead discontinued. The authors of the *Little Children are Sacred Report* interviewed a number of people connected with the strategy. According to the report:

This [discontinuing the strategy] was still a sore point for many people at the relevant communities where the Inquiry visited...The overwhelming weight of evidence received by the Inquiry is that the ALJS was working well, was embraced by the community, was on target to deliver many positive outcomes and was wanted in many other communities. The AJLS was also considered by many sources as being "innovative" and of "national value." (2007, p177-8)

Accordingly, Recommendation 73 of the report recommends:

That the government commit to the establishment and ongoing support of Community Justice Groups in all those Aboriginal communities which wish to participate, such groups to be developed following consultation with communities and to have the following role and features... (2007, p11).

Clearly, people are listening to these recommendations, and the importance and demonstrated success of the establishment of local justice groups has been included into the draft *National Indigenous Law and Justice Strategy 2009-2015*. The current draft *National Indigenous Law and Justice Strategy* has as very first²⁸ action (1.1.1a):

Establish, where none exist, and support local Indigenous law groups to provide advice to police, youth justice, courts and corrections in urban, regional and remote settings.

Themis objectives talk about structured, rather than ad-hoc, engagement by police with the community. The head of Taskforce Themis has also explained how the police are developing their Remote Policing Strategy which will include ways of carrying out effective community engagement. Community Safety/Justice Committees could provide

²⁷ Excerpt from the keynote speech delivered by the Ali-Curung Night Patrol and Safe House staff at the Alice Springs Reclaim the Night Rally, 24 October 2000. in Ryan (2000).

²⁸ Perhaps then the most important?

that structure to engage with, and the authority, from both the perspective of the Community and from the perspective of the government and government agencies, to negotiate with the police on these issues. The police cannot themselves set up these committees; but other government agencies, including the shires, the Attorney-General's Department and Aboriginal Legal Aid organisations, can facilitate and provide support to these committees.

The LCS report suggests that their role is not limited to communication and developing protocols with the police, but also would involve overseeing other programs including night patrol and women's shelters, mediation, dispute resolution and alternative sentencing and diversion models. The original intent of the ALJS was that there would be legislative backing for the strategy. In the absence of this legislative backing that current community justice groups have asked for, there is still a great deal of authority for the establishment and operation of these committees, including; the historical evidence for their success, the previous Aboriginal Law and Justice Strategy, the recommendations of a number of major inquiries including the RCIADIC and the Little Children are Sacred Inquiry, the current draft National Indigenous Law and Justice Strategy, Police Standard Operating Procedures, Taskforce Themis objectives and the stated desires of the police.

PART 2: COMMUNITY CASE STUDIES

Community	A	B	C	D	E	F	G
Perceived crime levels	Very high	Low. Alcohol and traffic offences very low	Above average	Very low	Medium	Average	Very low
Main problems	Alcohol; drink driving; traffic offences, sniffing; community violence	Family violence, child neglect, homebrew, "blue movies"	Alcohol, traffic offences, vandalism, stealing, violence	Few	Alcohol, Ganja, community violence, driving without a licence	Ganja high; typical in that alcohol, traffic offences, violence all significant, some child neglect	Driving unregistered cars or without a licence
Crime change	Small improvement; family and community violence, stealing, sniffing, alcohol (some)	Some improvement overall. Particularly: stealing, community violence, ganja. School attendance	Polarized: high % say everything; high % say nothing	Many said "nothing". Improvements in alcohol, speeding, violence, child neglect	Only some crimes; violence and property crime	High % said everything, particularly violence and alcohol	Very high perceived reduction across the board, esp. alcohol and traffic offences
Alcohol regime change	Dry area boundary large extension; confusion over where to drink; drinking camps remote but some water	None	None. People drink in nearby town after paying for a room/ campsite	Existing club remains open but reduced hours, no take away, mid-strength only. Less local drinking, more drinking elsewhere and 'sly grog'	Border now further away	Border now further away	Border now much further away.
Police focus	Traffic offences; drink driving; violence (some)	Community engagement and development; bicycle safety; violence	Grog running, community engagement	Community engagement, rare violence, traffic offences on main road; providing licences	Violent crime; property crime	Traffic offences (high), gun controls, alcohol, responding to violence	Traffic offences, community violence
Intrusive searches	Few	Few	No	Few	Some; mainly bags	Cars	No

Police response to offences	Warnings; protective custody	Warnings, education, DVOs	warnings	Warnings; protective custody; fines	Warnings, protective custody, fines, court, community	Warnings, fines, court	Warnings
Active policing	Medium	Low	Low	High	Low	High	Unknown
Police – community engagement	Little	High; esp. school	High; esp. getting to know people	Very high esp. school, getting to know people	High	Medium; involved with young people	Low; partial
Police take direction from community	Unknown	Yes; sacred places, searches	Yes; don't chase cars	Yes	Some; sacred sites, pepper spray. Not for fighting rules, spears	Yes	No
Culturally Appropriate	In some ways; but stop hunting etc.	High	Unknown	Very high	In some ways	Unknown	Low
ACPO present	No; police seeking one	No	No	No	Yes	No	Yes
Police treat all the same	Below average	Yes	No	Yes	No; black and white treated differently	Yes	No; major complaints around treatment of certain families
Police 'capture' by a section of the community	None mentioned	No	Yes; victim of sophisticated local community politics	No	Not mentioned but some evidence	No; but rely on one well-respected local	Yes, ACPO's family and TOs
Major complaints	Policing drinking and then driving and conducting RBTs. Police violence and verbal abuse; traffic offences enforcement	Speeding; some dissatisfaction by those reporting problems	Violence with others. NTER in general; police outside community	Entry to house/yard without permission; minor sexual harassment dealt with effectively. Major complaints with police in neighbouring town	Shooting dogs, not obeying all community directions	Violence, including with injured people. Prosecution for traffic offences on bush tracks	Verbal abuse, humiliation, siding with certain families
Likelihood of responding to police questions	High; polarised	High	Polarized	High	Medium; depends on issue	Medium; depends on issue	Unknown

Likelihood of reporting a problem to the police	Medium	Medium	Very low	Medium	Very high	Medium	High
Night patrol use	High	Low	Not mentioned	Medium	Low	Low	Very high
Night patrol effectiveness	High	Low	Not mentioned	Medium	Low	Medium/high	High
NP – police communication	Low; previously high	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
Community justice mechanisms	Traditional	Community meetings	No?	No, but family resolve disputes	Elders provide direction; want to write down rules	No	Elders/community meetings
Strong community leadership	No	Medium	No	Yes	Yes	Unknown	Yes; divided
Community characteristics	Medium; extremely remote	Medium; isolated	Small; close to a town	Small; fairly remote	Large; remote	Small; fairly remote	Medium; remote
Community approval police presence	Very high	Very high	High; polarized	Very high	High	High; qualified	Very high
Community approval police work	Medium; very high satisfaction from those who report problems to police	High	High; polarised	Very high	High esp. current OIC	High; increasing.	medium/high; polarised

Community	H	I	J	K	L	M	N
Crime levels	Very high	Reasonably low	Very high	Very low	Above average	Above Average	Probably below average
Main problems	Everything; kava and sniffing unusually high; homebrew; all types of child abuse occur	Alcohol, traffic offences, some violence	Violence extremely high, alcohol, traffic offences, property offences	Sniffing	Grog, ganja, traffic offences, property crime; violence	Alcohol, ganja, sniffing, stealing, family violence	Speeding, stealing, marijuana
Crime change	Low; some improvement in alcohol, speeding and violence. Many things getting worse e.g. gambling, homebrew; people divided over kava, sniffing getting better or worse	Significant general improvement; big improvement in alcohol	High improvement across the board	Some improvement; alcohol, drink driving, violence	High proportion said nothing. Alcohol, drink driving and community violence all improved according to some people. Many respondents things getting worse	Divided; more people said "nothing" than "everything". Community violence, sniffing and driving without a licence in particular have improved	Unclear; likely some improvement in banned substances and violence
Alcohol regime change	None	Border further	None; community members can buy limited amounts of take-away from nearby roadhouse; drinking camp just outside community	Wet to dry community; people travel several hundred km to purchase and consume alcohol	Border now further from community; extremely unsafe drinking camps in desert	Border now much further away	Border now further from community
Police focus	Violence, alcohol, dogs, searches	Community engagement; alcohol	Traffic offences, violence, alcohol; getting people licences	Traffic offences; checking cars passing through for banned substances	Largely inactive; some response to community violence; traffic offences	Banned substances; community violence	Relationship-building; alcohol; community violence
Intrusive searches	Yes, houses and especially bags	No	Cars	Cars	One mention; house	Yes, cars, houses and particularly bags	Many, particularly houses

Police response to offences	Warnings; let the community deal with it	Warnings; let the community deal with it	Warnings, prosecution	Warnings	Few responses	Warning, protective custody	Warnings
Active policing	Average	Yes	Very active	No	Inactive	Mixed	No
Police – community engagement	Improving, especially with elders. Not really involved with kids	High	Build relationships; not with kids	Little; but involved with kids	Nothing mentioned	Low; some involvement with sport	High; residents appear to believe less.
Police take direction from community	Yes	Yes	No	No	No	No	Yes?
Culturally Appropriate	Yes, apart from searches	Yes	No.	No	Unknown	No	Probably, apart from searches
ACPO present	Yes	No	No	No	Formerly	No	No
Police treat all the same	Yes; may favour elders	Yes	Yes	No	Yes?	Yes	Yes
Police ‘capture’ by a section of the community	No; some believe elders	No	Yes; particularly to do with language and information	Yes; one half of community	No but some evidence it may occur	No	None reported
Major complaints	Searches, Entry to houses without permission, police not doing enough	None	Police have interrupted men’s ceremony to arrest people. Police drink-driving	Inappropriate actions leading to death of young man	Heavy-handed with children, abusive language, ignore requests for help	Ignore crimes; inappropriate searches, pushing elderly man	Rough treatment; verbal abuse, intrusive searches
Likelihood of responding to police questions	High	High	Medium	Very low	Low	Very low; nobody would answer police questions	Very Low
Likelihood of reporting a problem to the police	Medium/Low	High	Medium	Very low	Medium/Low	Medium	Medium/Low
Night patrol use	High	Only recently established	Low	Very high	Medium	Very low	High?
Night patrol effectiveness	Medium	Unknown	Unknown	High	Medium	Low	Unknown
NP – police communication	One way only	Unknown	Little	High	High	Unknown	Good

Community justice mechanisms	Developing justice forum; use of elders and traditional justice mechanisms	Traditional	None mentioned	None mentioned	None mentioned	Elders and community meetings	Elders and community meetings
Strong community leadership	Medium	High; decentralised	No	Medium	Medium; divided	High	Yes
Community characteristics	Large; isolated	Medium; remote; dispersed	Small; fairly remote	Medium; fairly remote	Medium; close to a town	Large; remote	Large; fairly remote
Community approval police presence	Very High	Very high	Very high	Lowest; only half of residents	Low	Low; bare majority. One third don't want it	Low; bare majority
Community approval police work	Low/Mixed	High	High	Polarised; reasonably low	Very low	Very low; the lowest.	Low/ambivalent

COMMUNITY A

Crime patterns

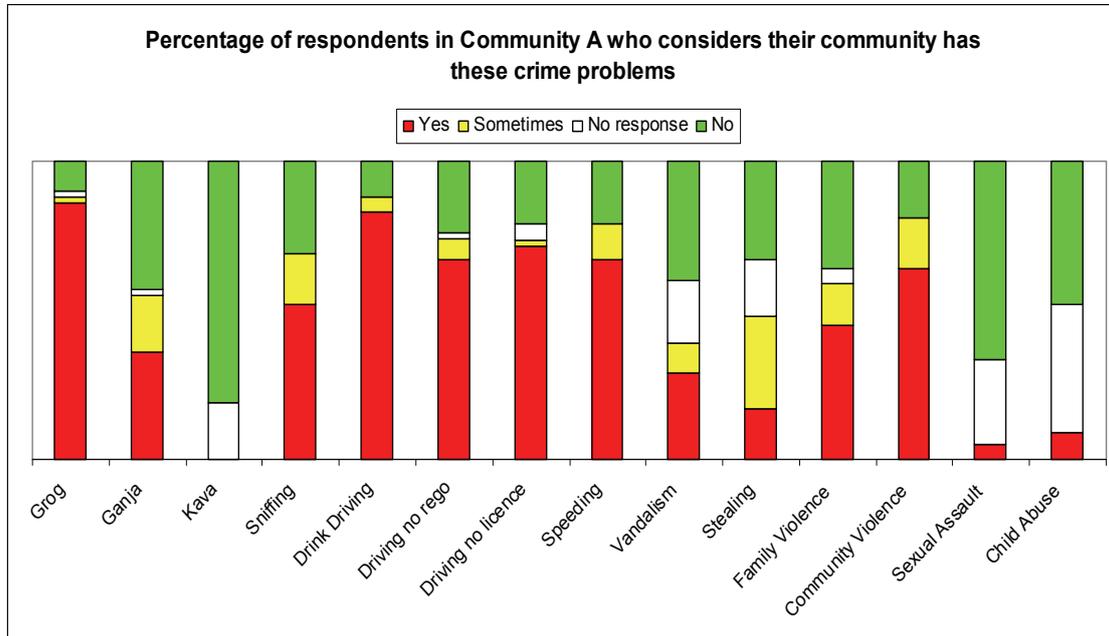


Figure 15: Graph showing whether respondents in Community A considers their community has these problems

Alcohol responses were the highest of any community, as was drink-driving. Ganja is a higher than average problem. Sniffing is the worst of anywhere. Traffic-related offences are also much higher than average. There is no 'bush bus' and the community is very remote from major centres. The nearest court is several hundred kilometers away. Community violence is somewhat higher than average. Overall community crime is much higher than average, principally linked with alcohol and motor vehicle-related crime. A number of people mentioned there was a problem with people not wearing seatbelts.

Alcohol is clearly a key issue for this community. Previously, the dry area was limited to just the community itself; The NTER expanded the boundary greatly. There is confusion over just where people can drink, partially because the 'blue signs' marking the restricted area were never put up at this community. People have 'drinking camps' in river beds apparently inside the restricted area. However, there is widespread belief that these drinking camps are too far out. Night patrol and other community members cannot practice their 'duty of care', particularly of visitors, that is very important in Aboriginal cultures. There is a fear that someone might die and that there will be payback. People can't walk home after drinking because of the distance, and this likely explains the very high figures for drink driving.

Changes in crime since the arrival of the police

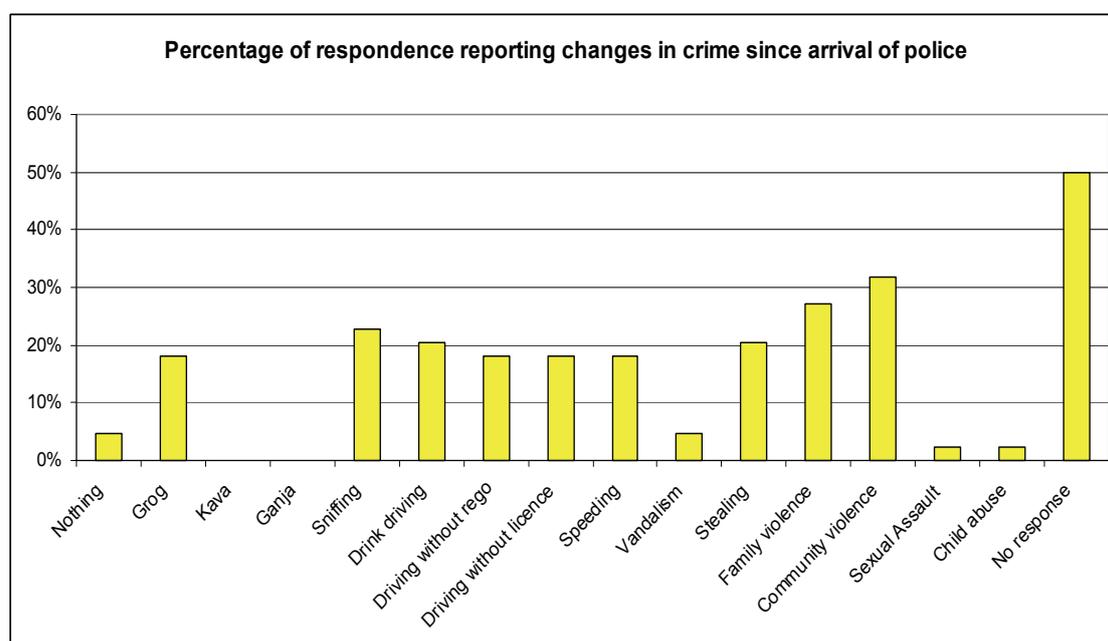


Figure 16: Graph showing the percentage of respondents that considers these crimes have improved in their community

The 'no response' rate is double the average for this question, so some care needs to be taken in drawing conclusions from this results. At the same time, the number of respondents reporting nothing is also very low. There appears to be an improvement in some crimes. As one resident put it, 'Used to have a big lot of problem before, drunks walking around, going to store, giving cheek.' And another, 'People used to fight every week, old people tried to stop it [the nearest police station before] 2-3 hours to get here, now not much fighting'. Even so, with only one in five people in the community reporting improvements, there is some question over the effectiveness of police presence. Reported improvements in all crimes are either below average or far below average. In particular ganja, whilst being a large problem in this community, has seen no improvement according to respondents.

Police practices

Police appear to be cracking down on the driving of unregistered vehicles and driving unlicensed. This is a clear problem for Aboriginal residents of the town, who generally saw this as unwelcome. Being able to drive around the community in a car was important for people because there was a lack of alternative means of transport, for example, the bush bus. This came up as an issue for sick people, e.g. 'We sick people would like police to overlook sick people driving from home to medical and shop to drive unregistered car. If [we] drive outside of community [then] they [can] book us.' It also came up as a factor (along with the requirement for having a gun licence) stopping people from gathering food and bush medicine, for example; 'we really like going fishing and hunting but the police won't let us because our cars are unregistered. They should let us go hunting because that's what we were doing before the police were here'. Unlike other places, rather than ceremony or privacy issues, this was the clear example here of police not respecting Aboriginal culture; 'they stop people from going hunting, for bush tucker and medicine'. Many respondents mentioned how police would drive around as

their main activity, booking people for unregistered cars and issuing fines. Some people talked about police dealing with the violence and grog. However, there were many people who were unsure what the police did in their community.

Police appear generally more 'reactive' in their policing practices; the number of people reporting that they had reported a problem to the police compared to the number of people reporting that they had been in trouble with the police was amongst the highest of any community surveyed (64% compared to 24%). In line with this, Community A was one of the few communities in which police going in to search people's homes without warrants did not come up as a recurring issue brought up by people. The police, to some extent, appear to have acknowledged the perceived problems with a lack of safe drinking places and it appears use their discretion to sometimes issue warnings or tip alcohol out, rather than prosecute. According to one person 'Drinking in creek, he just tells them to put their rubbish away. We need police to enforce the law.'

However, nearly half of those who had been in trouble with the police reported being treated roughly, and a third reported 'cheeky' or abusive behaviour. This may be related to a previous policeman rather than the current one. One previous policeman 'was rough with people, [he] pushed a lady with a wooden leg...[another] was really strict/terrible/threatened people...used to walk into people's house without a warrant, [and] swear/yell, rough/cheeky'. Other people talk about this 'old man police there at the moment is alright, old police are good, young ones think they know everything'. The OIC grew up in regional NT and this is picked up by several respondents. This was one of a small number of communities in which police drinking and then working came up. A number of people mentioned about how the police would drink and then 'drunk they then put road block up and book Aboriginal people.'

In a related issue, because of its remoteness and lack of any public transport, people were unable to get to court several hundred kilometers away, often for a traffic-related issue) and would then get a warrant put out for their arrest. Furthermore, this community is often completely cut off during the wet, with no regular air service during this time either. Together, this is a serious issue which acts to criminalize people and create harsher outcomes than might otherwise have been the case, given the offence. These difficulties seem to have been recognized by the police, who anecdotally appear to have taken a more laissez-faire attitude to arresting people with outstanding warrants. When reporting how police dealt with offenders, most responded giving warnings or holding people overnight in protective custody, rather than sending them to court.

There are high levels of police contact with the community generally, though it appears it is mainly 'business-related', with only 36% of respondents saying the police get to know the local people, low compared to other places. Unlike most other places, the police here are not involved with sport, the school or other interactions with the children. Language barriers were above average, with 7% reporting they didn't understand the police and 14% saying they only understood what he was saying sometimes. Interestingly, while far more people than average (57% as compared to 29%) reported that the police listened to both sides when dealing with disputes, the number of people who believed that he treated all people the same (41%) was below average.

Use of the Police and Night Patrol

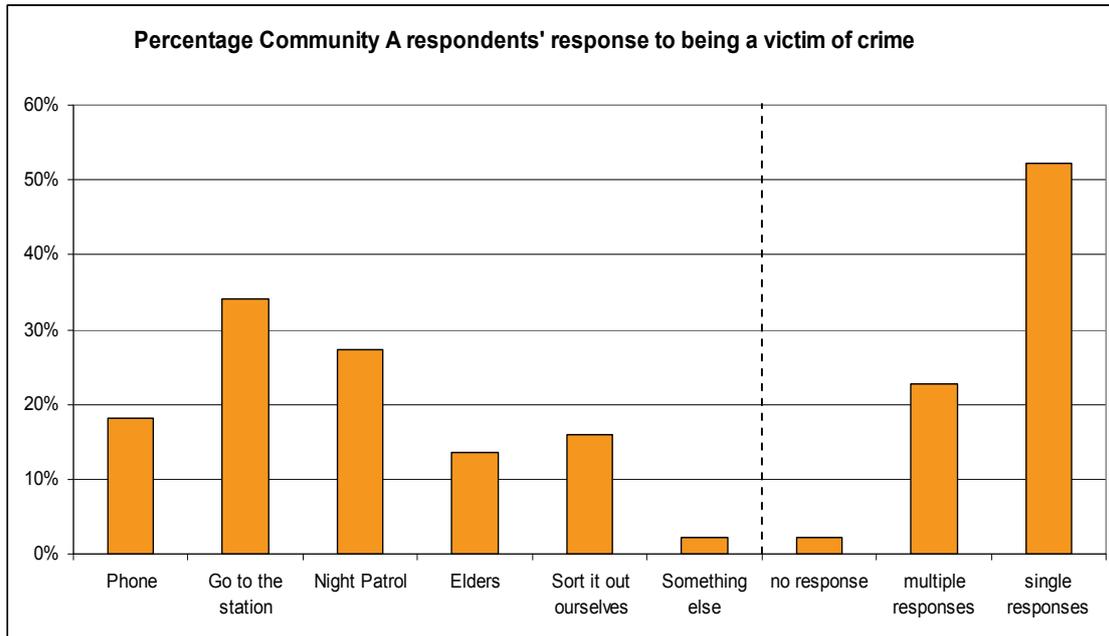


Figure 17: Who Community residents would tell if they were a victim of crime. Bars past the dotted line indicates whether people chose one option, multiple options or provided no response.

Responses to the question of who people would tell if they were a victim of crime are generally around average, with more people going to the station than average, presumably because of lack of mobile phone coverage. Use of night patrol and people sorting it out themselves are slightly above average, use of elders is slightly below. One difference from average is the high proportion of people giving a single response, indicating a degree of polarization within the community over avenues for resolving a problem. Part of this polarization between police, night patrol, and other responses may be due to the belief amongst night patrol that the police don't work with them; they don't patrol together and the police don't use night patrol when arresting people, to translate or explain what is happening. By contrast, the previous OIC used to patrol with the head of night patrol in the car and they worked closely together. Many respondents stated they would not tell the police about a problem because they were 'shy'.

This polarization is borne out by the response of people to the police coming and asking questions. The proportion of those that would answer police is very high: 41% - double the average; but then the proportion of those that wouldn't say much is also above average: 27%. Considering these, as well as the high proportion of people who have gone to police about a problem, it appears that there is a large section of the community with high levels of police trust, but the proportion of the community that don't trust the police and wouldn't go to the police, while smaller, is also relatively high. Night Patrol in this community was concerned about a lack of communication and cooperation between police, down from the previous OIC, who appeared to work closely with Night Patrol.

Community approval

64% of respondents had reported a problem to the police, the highest of any community, in keeping with high levels of crime and the high proportion of people who would respond to police asking questions about a crime. There was also 100% satisfaction with the police's response to the reporting of the problem. At the same time, 32% said that the police in Community A respected Aboriginal culture; 34% said no, with the rest not providing a response. This was below average. It suggests that even though the OIC had had a long experience with Aboriginal communities, the practical aspects of enforcing motor vehicle-related rules stopping much community hunting and gathering of bush medicine, possibly along with the comparatively heavy-handed treatment of those who had been in trouble with the police, meant that the policing was seen as relatively culturally inappropriate.

At 17% of people who don't care or are ambivalent about police presence, Community A interestingly had the highest of any of the communities. 63% of people were happy with the police living in their community, which is below average, but at the same time, at 2%, the proportion of people who didn't want a permanent police presence was amongst the lowest of anywhere surveyed. Because of Community A's particular remoteness from preexisting police stations, and high crime levels, people do seem to want the police there, regularly utilizing them and willing to talk to them about problems. For example, a statement like "we have been fighting for police for a long time. We want a permanent station and policeman" was made by a number of people.

At the same time people's experience to date, particularly to do with the enforcement of traffic offences, rough and verbally abusive behaviour by the police, the low community engagement and interaction with children, and the lack of clarity and safety of new alcohol laws, all combine to create an ambivalence around police presence. Although few people believe nothing has improved, improvement rates for crimes are below average, with people seeing no improvement in the presence of marijuana in particular to the community. This is borne about by how respondents rate the job of the police there, with a relatively high level of people responding 'sometimes good, sometimes bad'. The lack of complaints regarding police entering houses without permission indicates a more consensual style of policing. The proportion of people who believe the police are doing a good job at 58%, is slightly above average.

What respondents think about how the police are working	Percentage
Doing a good job	58%
Not doing much	14%
Sometimes good, sometimes bad	25%
Doing a bad job	2%
No response	2%

Table 2: What community A respondents think about the way the police are working in their community.

COMMUNITY B

Crime Patterns

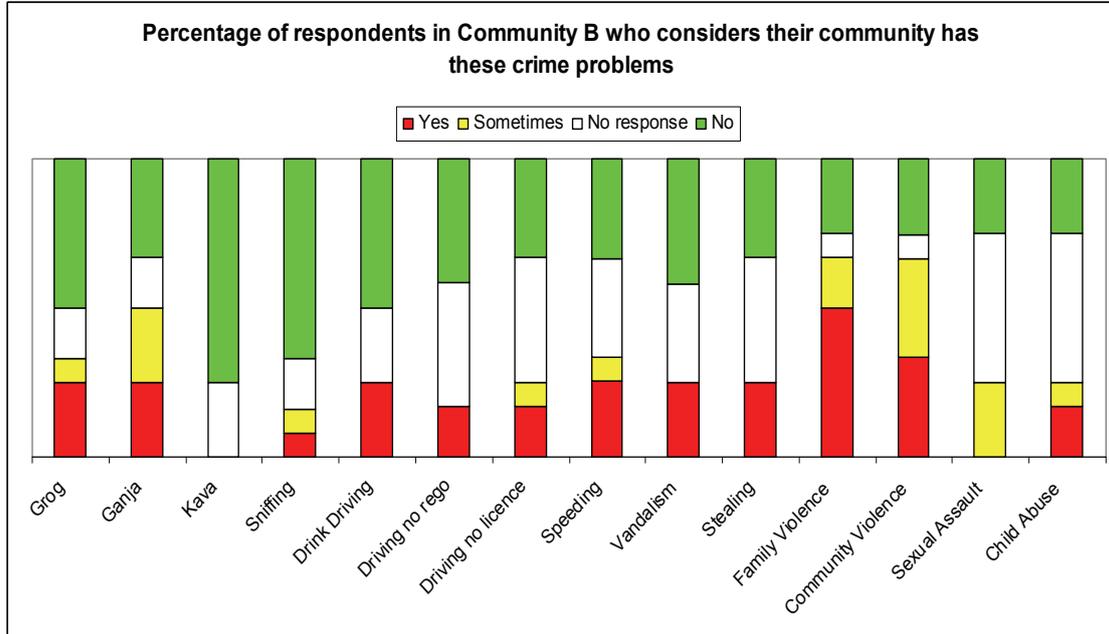


Figure 18: Graph showing whether respondents in Community B thought their community had these crime problems

Most crime in this community is below average, particularly alcohol and traffic offences, which are significantly below average. Violence, particularly family violence is above average, as is child neglect. This is backed up by the interview responses, a number of which discuss domestic violence. A few people mentioned homebrew and “blue movies” (pornography) as a problem. Low crime is partly due to the community’s remoteness, having no connection to the NT’s road network. The community is small. Traffic offences are also low because of high bicycle use, fostered through a program the police developed to increase bicycle ownership and use (further discussed below).

Rather than drinking camps, people fly to the nearest regional centre for occasional binge drinking sessions. Flights are expensive, and they often do not have the money for a return flight, and so get stuck in that town, or else may often get arrested and summonsed to court, which they are unable to attend because they cannot afford another set of return flights. No information is available which explains the higher than average rates of family violence and child neglect.

Changes in crime since the arrival of the police

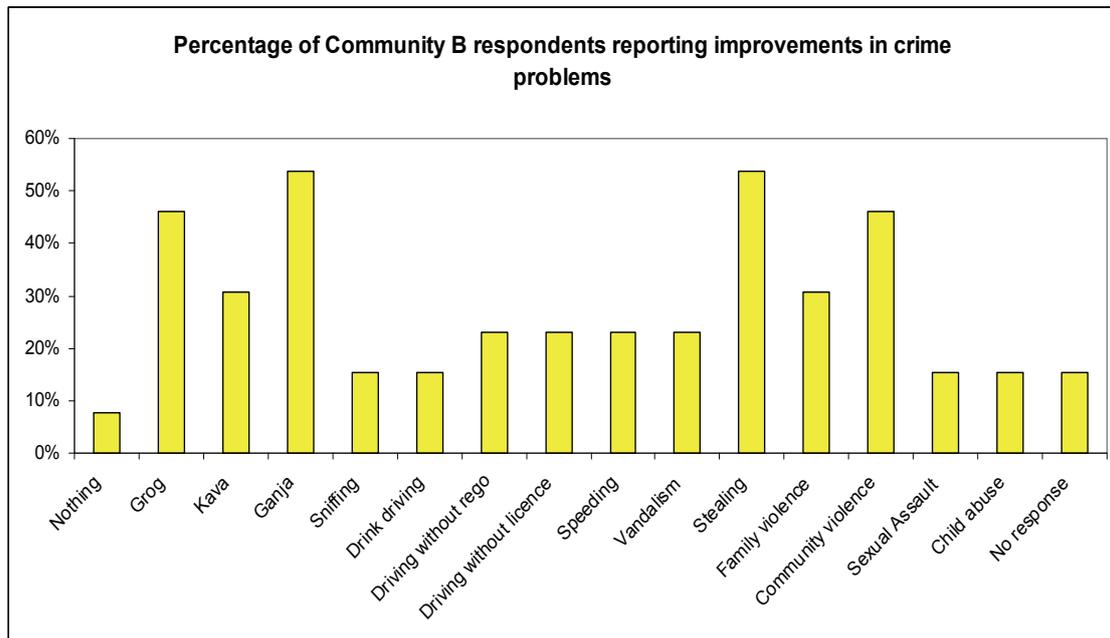


Figure 19: Graph showing the proportion of respondents in Community B that believe these problems have improved since the arrival of the police.

Improvements are generally above average in this community. Particularly interesting are the high improvements in ganja and stealing, which across all the communities, reported little improvement. Community violence has also improved. Kava has reported a big increase, to the extent that is apparently now non-existent in the community. One interesting thing is that several respondents talked about how “all the kids are going to school now”, “because we have police and a lovely principal”. In addition to the police presence, one respondent mentioned how income management has improved things.

Police practices

Every respondent to the question believed that the police respected Aboriginal culture. According to residents, the police listened to the elders in respecting sacred places and property by not going there or not touching them. Every respondent believed that the police got to know people in the community. The police are involved in the school, participating in culture week and other activities. The police have brought in bicycles, helmets, and have given rider training to people. Uniquely amongst the communities visited, a number of people are riding around, and wearing helmets. Correspondingly, traffic offences are low.

Police appear to be fairly reactive in their policing; with far more people responding that they reported a problem to the police compared to the number of people responding to the police. Police appear not to have been conducting many searches of houses, and there were no complaints about this from respondents, perhaps because police have respected the elders’ directions on this issue. One respondent mentioned how “they’re very good at listening to Aboriginal women”, which is significant given the local domestic violence problem.

8% had been in trouble with the police, with no complaints of unfair treatment, and no misunderstanding; 42% had reported a problem to the police, however, their experience was mixed, with respondents roughly evenly divided between those who were happy with the police response, those that were unhappy with the police response, and those who felt ignored by the police. The one complaint outside this process is to do with speeding by the police; “the police are always speeding on their afternoon drive. we've got kids that run on to the road”.

Police and night patrol

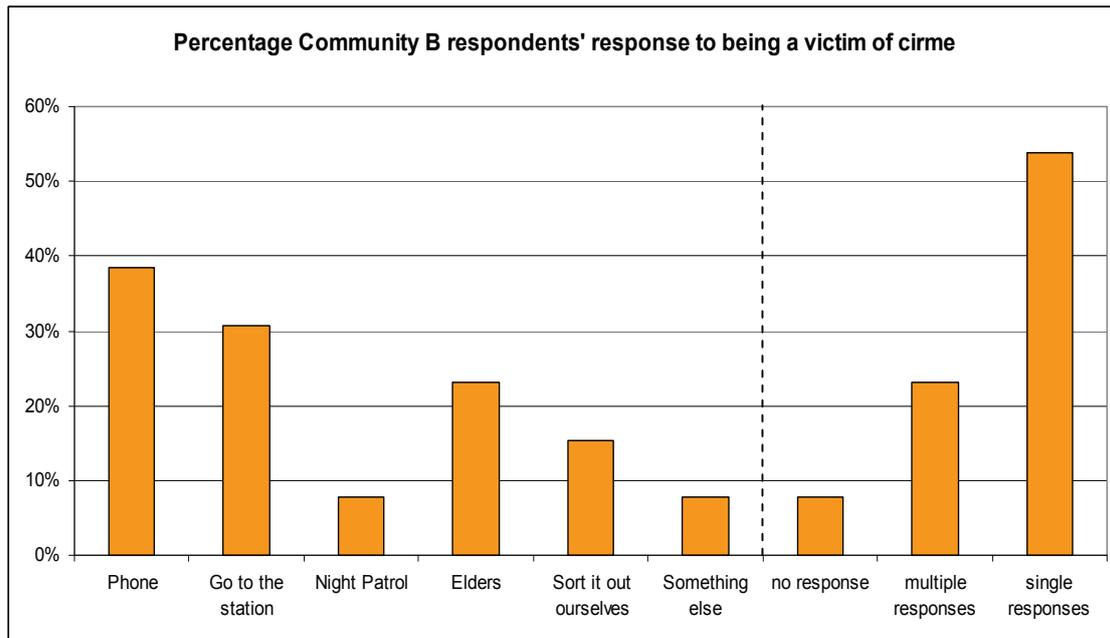


Figure 19: What residents would do if they were a victim of crime.

The number of people who would go to night patrol if they were a victim of crime is amongst the lowest of any community, partly because the police are very popular, and partly because of the capacity of night patrol. One respondent mentioned about how the night patrol workers are from the same family; similarly to other places, this is likely to be a problem in terms of even service delivery - not all families will feel comfortable using night patrol. Night patrol are less integral to the community, given that, according to night patrol there is relatively little going on at night in public beyond young people wandering around and relatively few problems with alcohol. Transport is a factor in why night patrol are popular elsewhere, but in Community B there is a bus that drives around.

According to some responses, there is a lack of communication between the families, and, in common with many places, there is sometimes some conflict between Traditional Owner families and the rest of the community. However, the families are responsible for a lot of the community resolution of conflicts, for example, talking to and shaming people who have been fighting. The community believes that they should deal with crimes involving young people, like vandalism and stealing.

Community Approval

100% of respondents are happy with the police presence in Community B. The approval of how the police are working is slightly above average:

What respondents think about how the police are working	Percentage
Doing a good job	58%
Not doing much	8%
Sometimes good, sometimes bad	17%
Doing a bad job	0%
No response	17%

Table 3: What residents in Community C think about the way the police are working

If we remove the no response category, 70% of people are happy with the work of the police. It appears that a combination of being involved with the kids, respecting the directions of elders, an appropriate response to domestic violence, and a lack of heavy-handed or intrusive policing all combine to give a relative high approval rating. The way that motor vehicle-related crime has been addressed may be a model for other communities to follow. The community's remoteness and small size also appears to be a factor in keeping many crimes relatively low.

COMMUNITY C

Crime Patterns

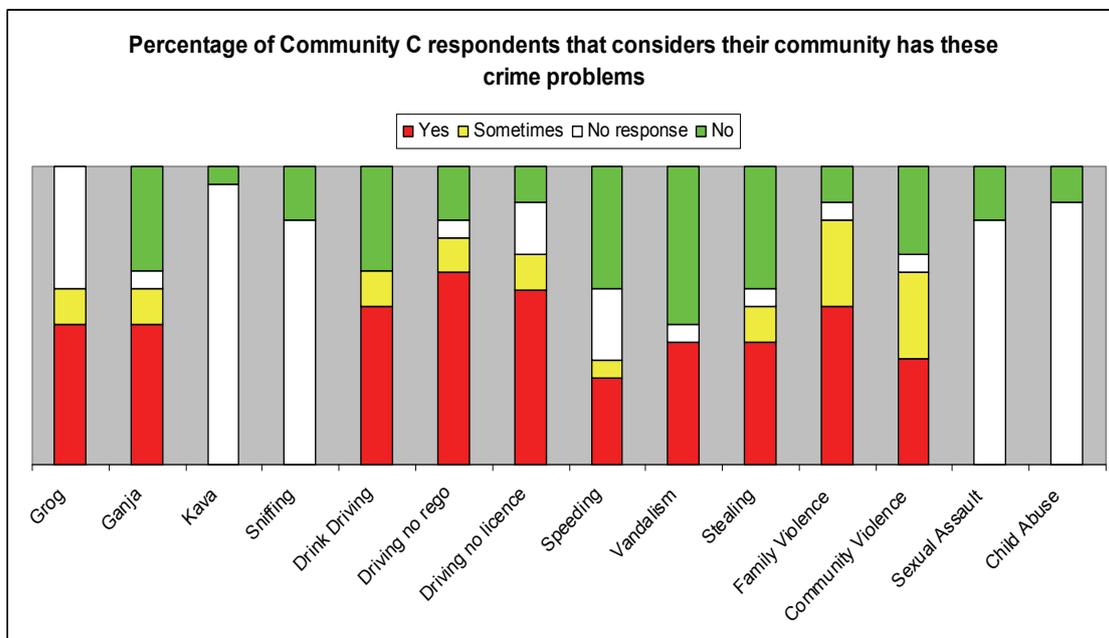


Figure 20: Graph showing the proportion of respondents in Community C that believe their community has or does not have these problems.

Alcohol is about average, however, there were no people who stated alcohol wasn't a problem in their community. Ganja is above average. Traffic offences are above

average. Vandalism and stealing are above average and violent crime is significantly above average. No direct reports of sexual assault or child abuse but few people stated these weren't a problem in their community.

This community is near to a town. People go to this town to buy alcohol. There is a requirement that everyone purchasing alcohol has to buy a room at a hotel or a campsite. This has become an additional 'tax' on Aboriginal drinkers from Community C. People buy takeaway alcohol, drink it and sleep outside the town before coming back to the community. There is a belief amongst a number of males in the community that 'the system teaches people how to binge drink' and that 'people need to be taught to drink in moderation'. These people suggested a local club, with a limited list of people that can drink there. This will mean that, 'if people can have a beer after work they will work, rather than just waiting for Centrelink money and then driving into [the regional, not the local] town.'

Changes in crime since the arrival of the police

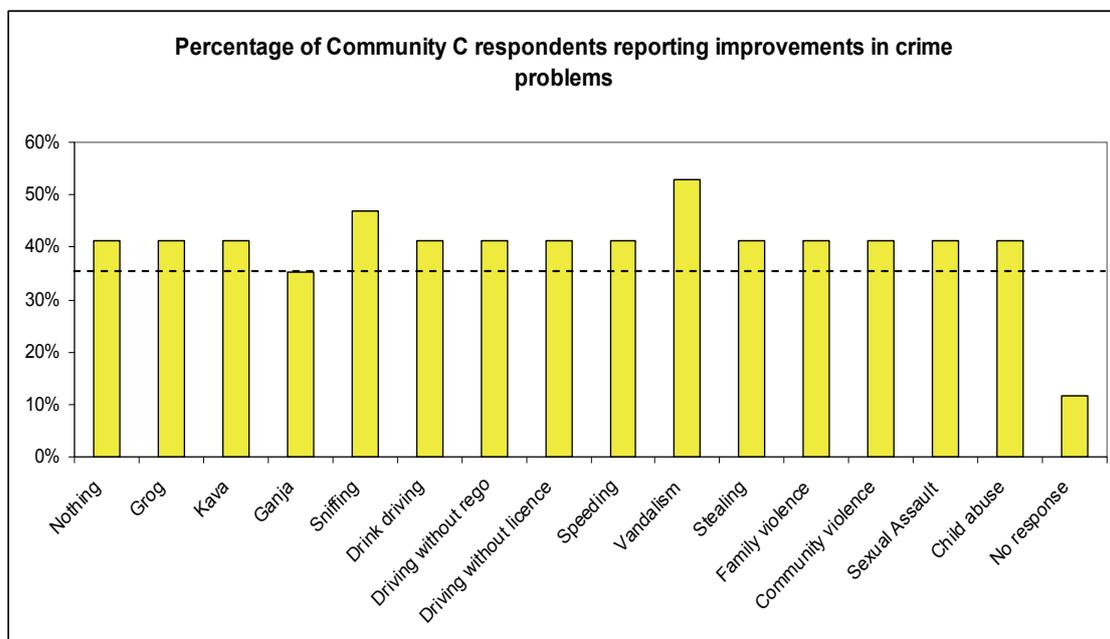


Figure 21: Graph showing the percentage of Community C respondents that believe crime in their community has improved.

The views of respondents appear to be strongly polarized between those who believe nothing has changed (41%) and those who believe 'everything' has changed (35%), with few people going into details on specific crimes. For some, 'Things have changed here since the police came. There used to be drunks hanging around, people doing drugs. It's changed now, there's no drunks walking around. There used to be a lot of drug dealers, grog but it's all changed now.' Because of this high proportion of respondents that gave 'everything' as an answer, little can be said about specific problems, though it may be worth noting the outlier positions of vandalism and ganja. It is worth noting that prior to the NTER, Aboriginal Community Police Officers were stationed in this community.

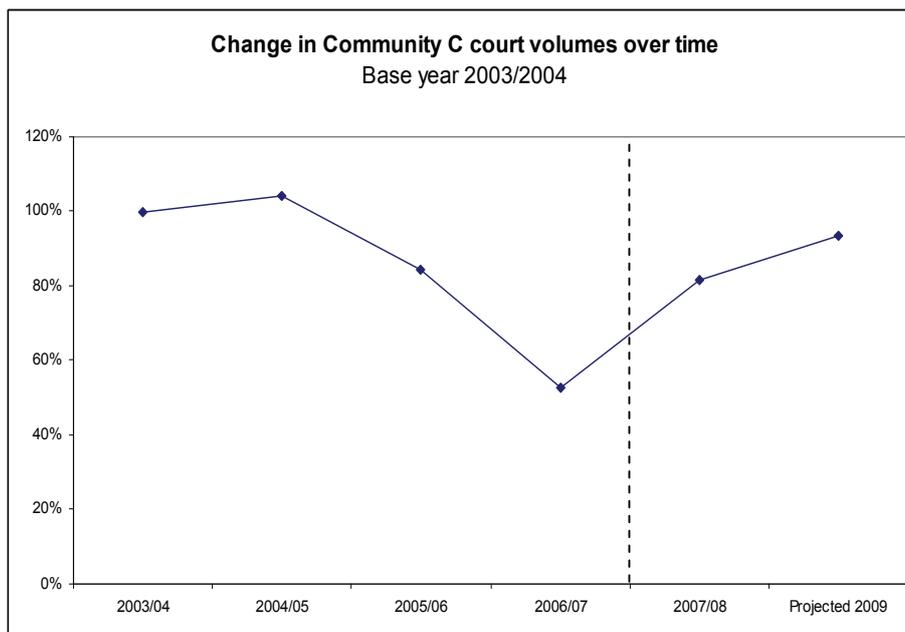


Figure 22: Graph showing changes in court volumes in this community. The vertical line marks the start of the NTER

If we examine the court data, we can see a downward trend reversed by the impact of the NTER. The community had a police presence prior to operation and it may be that this police presence prior to the NTER was contributing to a downward trend in crime. This trend then reversed, likely due to the changes in the law and an increase in the police presence in this community and others that send people to the court located in the community. Note that there may be other explanations for the decrease in court volumes prior to the NTER.

Police practices

Police appear to be taking more of a *laissez-faire* approach in Community C, with the difference between people reporting a problem and getting in trouble the highest of any community researched (59% compared to 12%). Court volumes at this community show a rising trend counteracting a falling trend; without a breakdown of matters by offence type, we cannot know if these are reported crimes like stealing or due to active policing, for example traffic matters. There were no complaints of unfair treatment, however, 24% reported the use of violence on other people in the community. Of those who had gone to the police with a problem, only one person was not happy with how the police dealt with that problem.

The police appear to be issuing more warnings that prosecuting people with respect to traffic offences and alcohol offences. A number of people mentioned about the police warning people driving without licences rather than taking things further, and others commented that; 'this police man just warns people – stay out there and drink, come back when you're sober. He's good.' Having said that, a number of cars had been confiscated for grog-running. This approach of using police discretion to warn people for minor matters rather than prosecute comes out of the OIC's history of work in Aboriginal community. Those who believe the police are good expressed sentiments similar to this lady; 'they are a great help, even at night. They look after the community very well. He comes into our houses and has a yarn with everyone, ladies, kids'. 41% of respondents indicated that the police listened to the community and 24% reported that the police

were helpful. An example of this listening is that the community asked the police not to chase young people in cars, in response to an incident in the area, in which a car full of young people trying to escape the police, were killed when their car came off a bridge. Perhaps because of the police's popularity, people appear to go to the police with problems to be resolved rather than night patrol, with few people mentioning night patrol at all.

However, again, there is clear polarization in community perceptions of the police. For example, 47% of people think that the police respect people, as compared with 41% that think that they do not. A number of people expressed deep mistrust of the police in general, for example, 'the police station is part of the plan to get rid of Aboriginal people from this community', and 'Misinformation. Intervention, child abuse but no charges laid.' This polarisation of views may be due to the differential treatment of some members of the community. A number of people expressed how the police 'only listen to some people, they take sides in the community'. They talked about how 'they only listen to whoever goes to the police first. Like treating the bad people who starts problem good way and treating the innocence has a person who starts fights or arguments.'

One recurring issue was complaints about one of the police in a nearby community. People saw them as someone else's police; that they were, in contrast to the local police, relatively strict in enforcing the law, particularly searching and seizing cars for alcohol even when people were going to drink it outside a restricted area, and also complained that they used rough behaviour against people, as well as committing a relatively serious breach of Aboriginal law.

Community Approval

As mentioned, the community appears divided as to the impacts of the police station. This division seems due to a general distrust of police and the government, and that when talking about the police then stationed in the community, there were generally more positive perceptions. There's been a clear change in perceptions of the police over their time there. This was how people felt when the police first arrived:

How respondents felt when the police first arrived	Percentage
Happy/safer	53%
Negative	24%
Ambivalent or Mixed	6%
No Response	18%

Table 4: How respondents in Community C felt about the police when they first arrived. Responses have been aggregated into positive, negative and mixed.

In contrast now, every respondent to the survey reported feeling happy or safer with the police, a large improvement. The police's understanding of Aboriginal policing, his use of warnings rather than prosecutions in minor matters, and his active engagement with the community all contribute to positive perceptions. However, the community does remain deeply divided and it appears that the police have, to some extent, been caught up in the sophisticated community politics played through government and non-governmental organisations by some members of the community. There is a clear difference in feeling between 'their' police and the police of the neighbouring community. This community has a sense of ownership of regarding their police.

COMMUNITY D

Crime Patterns

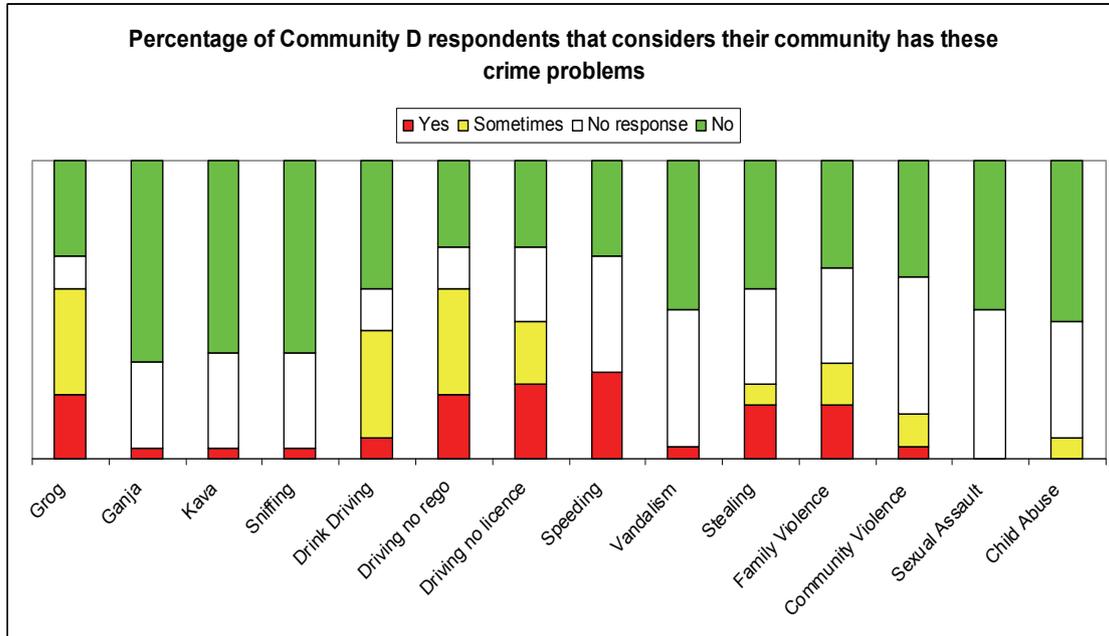


Figure 23: Graph showing the proportion of residents in Community D that believe their community has these problems.

Community D has amongst the lowest perceived crime rates of any of the communities ('no' responses were higher than anywhere else). Alcohol problems, generally uniformly high, were relatively low here; ganja was greatly below average; traffic offences are below average, and violence, particularly community violence, was also very much below average. Many of the concerns of residents centre around relatively minor matters, for example, young people walking around at night, haircuts and swearing. According to one participant, as an indication of low violence in the community, the women's safe house hadn't been used once since it was built.

Interestingly, given the relative absence of alcohol problems, Community D was the only community in the research to have a club that served alcohol. The club serves mid-strength alcohol for limited hours a few days a week. The club has trained security to deal with any problems and is a few kilometers away from the residential area. Unlike other places, there appears to be a culture of 'responsible drinking'. Another part of the reason for the low crime rates is the small size of the community, and its dominance by one strong family, which plays a key role in dealing with any incidents that arise (see notes below). According to one resident, "There used to be a lot of fighting before, back in the 1980s, but the community all agreed we all live here, we won't fight any more."

Changes in crime since the arrival of the police

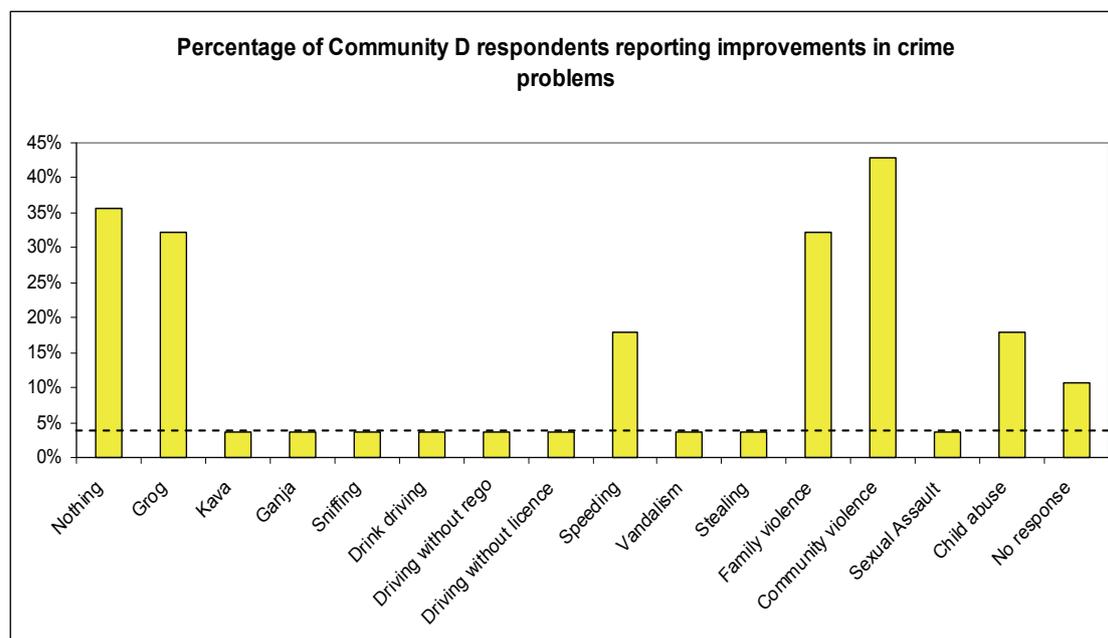


Figure 24: Percentage of respondents in Community D reporting improvements in crimes

Again, the dotted line marks the ‘everything’ response. Care should be taken in interpreting individual reduction rates below this line. The high ‘nothing’ response is due to the belief by many people that the community was already safe and did not have serious or regular problems even prior to the police presence. It’s clear that the police presence has affected certain crimes – alcohol, speeding, family and community violence and child neglect – but not others; property crime, traffic offences other than speeding, and marijuana.

A significant difference is changes to the alcohol regime in the community. Previously, there were few restrictions on the service of beer, apart from take away only being available one day. There was a relatively sophisticated regional system to manage alcohol and promote responsible drinking, incorporating shaming and respected by people in the community. There was some violence, but, according to locals, this walk home meant that by the time people had arrived back home, they were either sober, or tired out from the walk and slept.

As part of the NTER, the rules were tightened, with a big reduction in hours and a reduction in the strength of alcohol served. Permits were issued for the first time so people could drink at home, and the proportion of ‘sly grog’ (bringing in alcohol to drink at home) has also increased. Instead of drinking locally, some people are regularly traveling to the nearest town to binge drink on weekends. At the same time, a number of respondents to the survey also mentioned how that “since the Intervention, they cut grog to light can, men don’t come back as drunk. This is good.” The combination of reducing local availability of alcohol and a permanent police presence has, according to people, reduced public drunkenness and fighting outside the club that used to occur before the NTER. Together these explain the changes in crime shown above.

Police practices

Police appear to spend an unusually high amount of time in community engagement. Beyond sport, they also appear to be involved in other school activities and one has even gone on a weaving trip with the women. They appear to respect ceremony. As a result, 96% of respondents believed the police respected Aboriginal culture; 93% believed that the police got to know local people. Outside of these activities with children in the community, the main police activities appeared to be; dealing with rare fighting at the club after hours; responding to domestic violence; enforcing traffic-related offences, including the transport of alcohol, on the main road outside the community (but not inside the community); and other service provision, for example issuing drivers' licences and gun licences, and attending accidents. Locals also reported that police issued on-the-spot fines for people who were drinking and swearing in public. According to one respondent, "lots of fines for people swearing in public."

Interestingly the highest proportion of people of any community reported being in trouble with the police – 36%. All but one reported being treated fairly, with one reporting 'cheeky' behaviour by police. 46% had reported a problem to the police, with 92% of those happy with how the police dealt with the problem. It appears that the police are relatively active in the community, and that this is largely due to the active use of the police by the members of the community. An example of this relatively high level of interaction with the police is that 71% of respondents in Community D reported having talked to the police, with no problems being understood by the community. Although the police were relatively active in the community, in keeping with the high levels of approval of their behaviour, they are perceived to be unusually fair and even-sided in their activities. Uniquely, everyone reported that the police treated everyone the same, and this community had the second highest proportion of respondents who believed the police listened to both sides

There were a few complaints about police coming into people's houses and yards without asking, but they were below average for the communities surveyed. The most serious complaint was one about a police officer drinking and driving (an issue that was raised in a number of communities); it was reported that there was a minor case of harassment of one of the female members of the community, after which the police officer left. Because of the way the police dealt with this incident, community approval of the police has remained high.

The police and night patrol

The most significant response of this community was the high proportion of people that responded with something else, in this case mainly "family". People in this community usually resolve dispute within the family, including methods like shaming and so on. The police are actively engaged with this way of dealing with problems. One respondent mentioned that "if there's a problem they [the police] sit down with the families and work things out." If the problem is more serious, people go to the police.

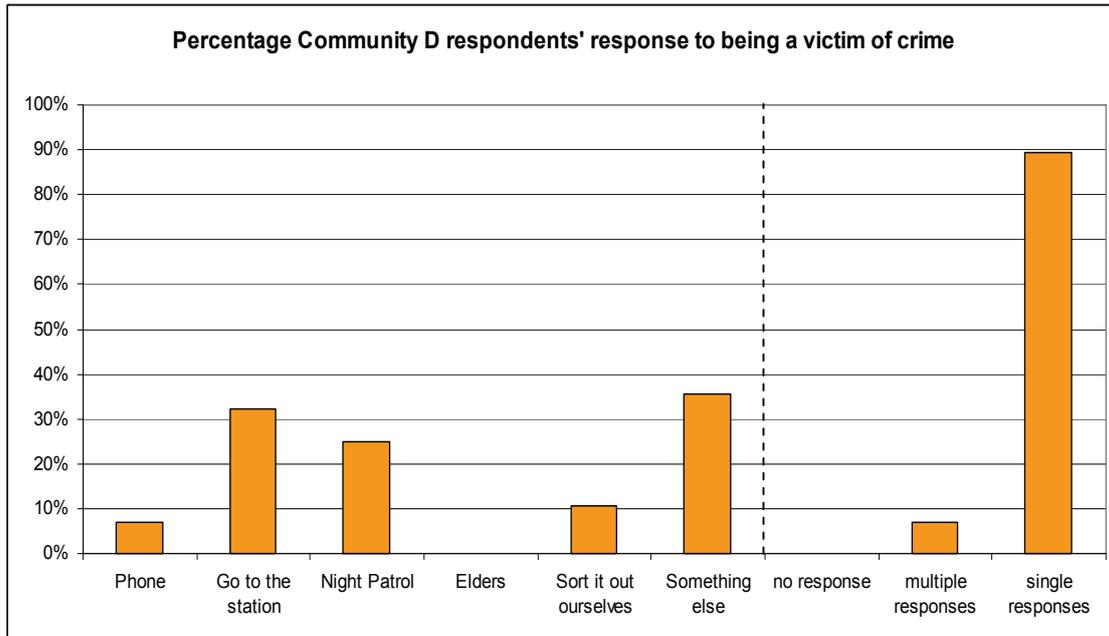


Figure 25: How respondents in Community D would react to being a victim of crime.

People who would go to night patrol if they were a victim of crime were relatively low. Before the police presence, according to one resident, “We had our own volunteer night patrol. Women could work until 7pm, men worked after 7 till late, we would take drunks home in the community bus.” Because of the lack of regular problems here, the active work of family in dispute resolution, and the high approval of police, night patrol appear less useful than other places, with their role mainly being reduced to taking people home after the club closes. Night patrol are also involved with taking kids to school. Night patrol raised some cultural issues, for example, their cultural responsibility to take nieces home if they are walking about by themselves, which seemed to clash with their official role. Given the small size of the community and its low crime rate, the three police, the security connected with the club, and the six night patrol members, there was some question over whether there were too many people involved in community order and safety.

Community Approval

86% of respondents were happy with the police living in the community, amongst the highest of any community. The convenience of having people locally to deal with licenses and accidents, as well as any problems that might arise, means that a low crime rate is not necessarily an indication that police are unwanted.

What respondents think about how the police are working	Percentage
Doing a good job	82%
Not doing much	7%
Sometimes good, sometimes bad	7%
Doing a bad job	0%
No response	4%

Table 5: What respondents in Community D think about the way the police are working

At 82%, the proportion of people who thought the police were doing a good job in this community was the highest of any community surveyed. As one resident put it, “really good. We're lucky ones we have the good coppers out here”. The police's work in putting a lot of effort into engaging the community, respecting and working with existing dispute resolution systems, avoiding prosecuting minor traffic matters locally, but responding to serious problems when they occur, appear to have achieved very high satisfaction rates.

This positive view of the local police is in contrast to the police in the nearest town, which were mentioned unfavorably by nearly all respondents in the community. Members of the community have a serious issue with how this policeman is working, with a series of complaints coming out of residents. Here is one:

Those police [have a] bad attitude towards women and children. Last week bit of drama between two tribes, we rang police at 11pm. He wasn't happy about being woken up, complaining about leaving his 6 month old baby at home. but the women and children were terrified. We had a problem with that other family for 5 years, we tried to get police involved, but the police didn't help us. it's sorted now both sides of the families without the police. [That town's] police said "you mob can ring ten times I won't answer" - he came out shouting. The ladies were scared to talk to him after that. He wasn't very nice. Really rude person he was. But the trouble continued on the next morning. He put his light on high beam, didn't turn it down. He wanted us to do statement, but we was frightened, we didn't want to get in the police car.

COMMUNITY E

Crime Patterns

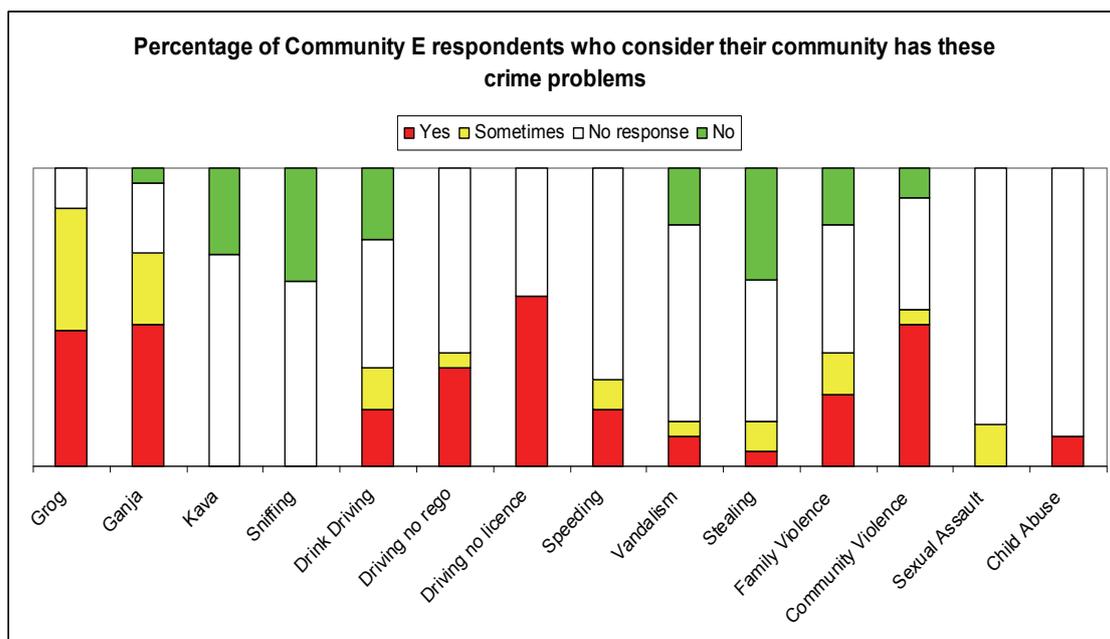


Figure 26: Graph showing the proportion of residents that considers that their community has these problems.

Community E's residents' responses to crime issues should be taken with caution because of the high proportion of people who gave 'no response' as indicated by the large proportion of the bars coloured white. The community appears to have a significant problem with alcohol and ganja, some problem with violence and traffic offences, but property crime, like break-ins, are likely below average. A number of people in their responses commented on how ganja is a problem in their community, whilst also acknowledging that alternative ways of dealing with the problem, rather than incrimination, may be more useful

Changes in crime since the arrival of the police

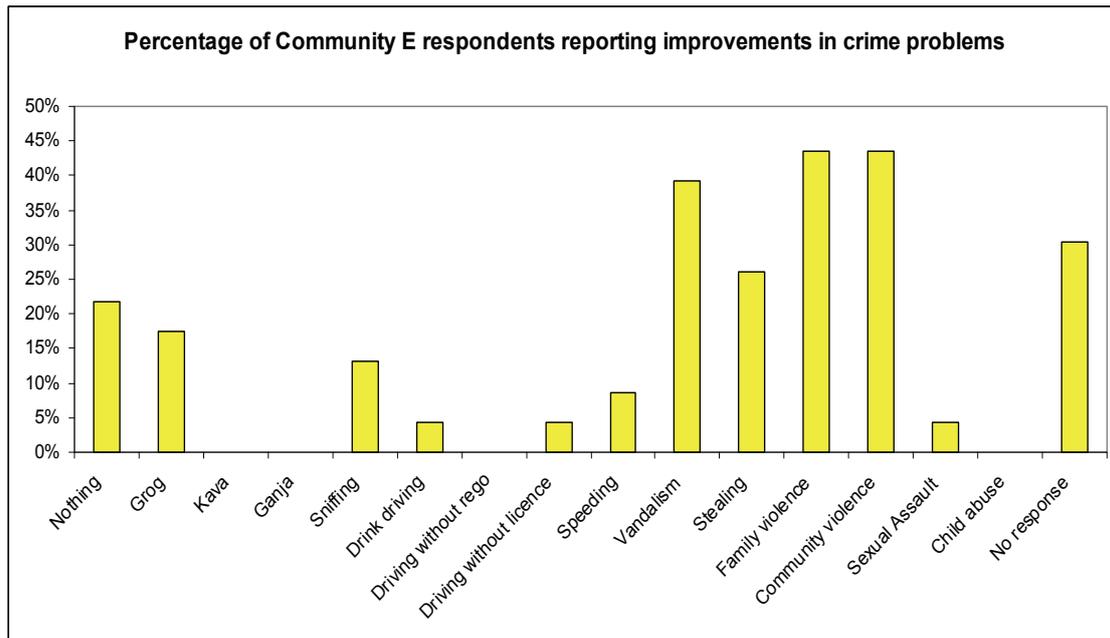


Figure 27: Graph showing the percentage of Community E respondents that considers these problems have improved since the arrival of the police.

The proportion of people reporting nothing was above average. The no response rate was again high. Of those that did report changes, they appear mainly to be in violence and, unusually, property crime. The variation in improvement across different crimes is unusual, in part because nobody responded 'everything', and it is interesting that respondents report little or no improvement in traffic offences and ganja.

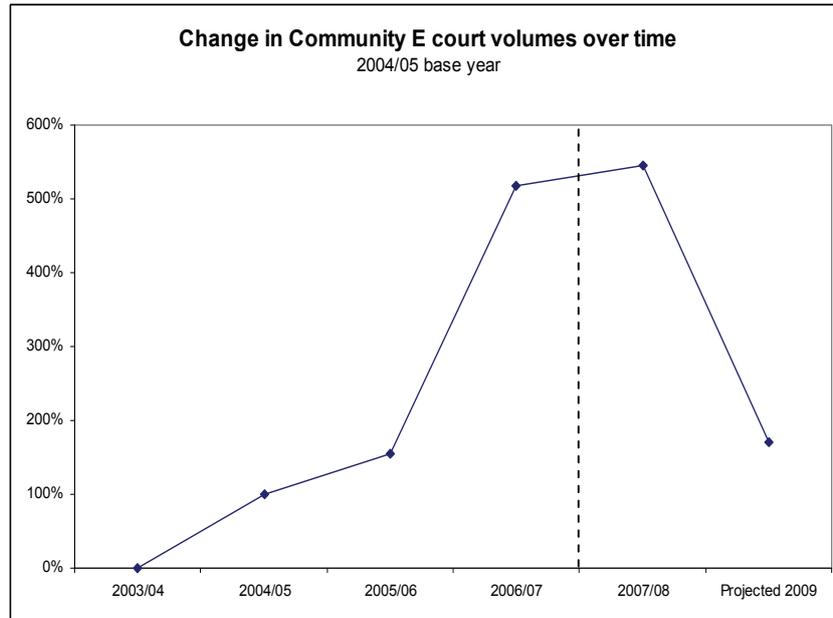


Figure 28: Graph showing change in court volumes over time in this community. Base year is 04/05. The dotted line indicates the start of the NTER

The police station in this community was constructed prior to the NTER and staffed on a temporary basis and this may explain the large increase in court volumes prior to the NTER. It is unclear as to why there has been a big decrease in court volumes in the most recent year but it is likely due to appropriate police practices.

Police practices

The community appears to have high levels of contact with the police. 76% of respondents had talked to the police – the highest of any community surveyed. 57% of respondents stated they had reported a problem to the police, in the top third of communities, with two thirds of those happy with how the police dealt with the problem, which is below average. In contrast, only 10% of respondents reported that they had been in trouble with the police. The difference between the two figures (47%) was the highest of any of the two communities. Of this 10%, there was one report of unfair police behaviour, one report of rough police behaviour, and one person mentioned they did not understand the police. This suggests that the police are pursuing a less proactive policing style. It appears police have been less active in dealing with traffic offences, and instead appear to be concentrating on reported crimes like violent crime and stealing, as borne out by the subjective crime improvement figures above. Complaints about searching houses, whilst they were received, they were relatively low compared to other places, suggesting police have been mainly searching cars and planes for grog. In addition to concentrating on violent crime, the police also appear to be actively engaged in the community in a number of ways.

Removing no response, 69% of respondents believe that the police in Community E respect Aboriginal culture, compared to 31% that don't. Police have listened to elders and respected their directions in a number of ways. They don't go to sacred areas, and they don't disturb private ceremony. They take part in hunting and fishing trips. Interestingly, one way is that that the police have listened to the community regarding its concerns about the use of pepper spray:

Pepper spray- when families come and see the young boys, sons or daughters, their fathers sprayed. They seen their Dad had been sprayed by the pepper and they were crying. If Police go there and kids were there they can't spray it. It hurts the kids and the mother. We don't like it anymore.

People believe that in response, the police have largely stopped its use in Community E. There is an Aboriginal Community Police Officer (ACPO) and he assists in communication between the police and elders in the community. However, there are also a number of directions from the elders that the police have ignored. These are:

- The police shot a dog. People “We were upset because dog had traditional name and spirit. It caused great sadness and hurt. Police don't understand the significance of the animals and the pain caused when they are killed.”²⁹
- People are pulled up for carrying spears for hunting and “sticks for cheeky dogs”. As one respondent put it, “I can't even get my mud crab, they take my spear away”. Spears were seen as different to non-traditional weapons like axes.
- There is a community agreement that people, particularly young men, are allowed to fight to settle some disputes, as long as they don't use weapons and only use their fists. Part of this is traditional dispute resolution. For example one boy went and asked the police politely if he could hit someone in retaliation for being hit, but was refused. From an Aboriginal perspective, this means that disputes and bitterness continue and are not resolved.
- Searching houses and bags and viewing or handling sacred objects. This came up repeatedly.

Members of the community are interested in codifying the community rules to be handed to the police, for example, one man explained that, “Some police they in and out. Another police come they don't know the rules. I want elders to meet together, make the rule, talk to the police, write it down. So when the new police come they can see the rules. I want to do that.” Writing the community rules may increase the legitimacy of these rules in the minds of non-Aboriginal service providers. As well as police taking on board some of the directions from elders, the police here also engage the community through interaction with children, including playing sport.

There is a widely-held belief in this community that the searching of cars, houses and bags only happens to Aboriginal people and not non-Aboriginal people. This belief was not limited to this one community but was raised in a number of places and is discussed in Part 2. As one person put it:

Aboriginal people are searched and charged but not Indigenous people. It's not fair. Happens everywhere. Permits are not checked for non-Aboriginal people. People our color are always checked. Contractors should not be allowed to have grog. People have to be equal, one rule. Coming in on the plane, Aboriginal people are checked but not [non-Aboriginals]. [non-Aboriginals] should get checked on day trips.

²⁹ The significance of pets is similar to “mainstream” culture.

There is division over whether police should do more or less searching. Some in the community think the police should be more active in regards to searching cars for grog, for example: “Police should patrol for grog more, this should be a really dry place”. Others highlight the high penalties for carrying small amounts of alcohol and also this perceived discrimination against Aboriginal people; “I had one bottle of Jim Bean and they took my car away. Why don't they take the plane away?- same rule as for car”. This experience of the police treating Aboriginal people unfairly is borne out by the responses. 40% of respondents believed that the police don't treat everyone the same. Unlike other communities with ACPOs, there was no discussion with the researchers regarding whether one or a few families are treated better than others, or are listened to more than others. At the same, when no responses are removed, 50% of respondents believed that the police do not listen to both sides in a dispute. This may go some way to explaining the previous figure as well.

Police and night patrol

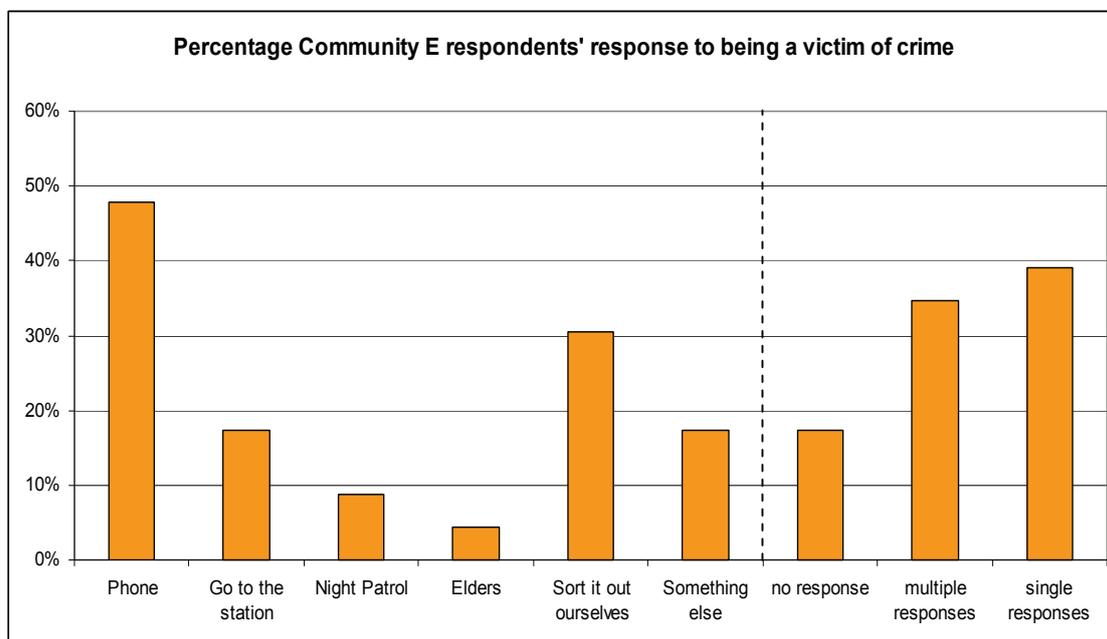


Figure 29: Percentage of Community E responses response to being a victim of crime.

There are three unusual elements in the chart. Firstly, the high proportion of people who would phone the police compared to going to the station. It indicates the reliance on the phone by people where there is NextG reception. Interestingly, a high proportion of people indicated that they would sort a problem out themselves. This is backed up by the rule discussed above in the community, that people can settle a dispute themselves, provided weapons are not used. Also notable is the relatively high proportion of people giving multiple responses to the question; indicating that people use several mechanisms to deal with problems in the community.

Night patrol, by contrast, ranks unusually low. This is likely due not only to the presence of an ACPO which removes some of the fear of talking to the police, but also because of concerns with the lack of capacity of night patrol, with a number of response given along the lines of, “Night Patrol's not doing anything. Sitting on their arse, not walk with their feet. The shouldn't be getting paid for this”. Others call for closer cooperation between the police and night patrol.

Community E residents show sophistication in dealing with the police, in line with their multiple avenues of dispute resolution. From the chart below, it is clear that the proportion of people who have fixed views about responding to the police is relatively low. The ratio of those who would answer questions the police were asking about someone else, compared to those who wouldn't, usually gives a good idea about levels of police trust.

What respondents would do if the police came asking questions	Percentage in Community E	Percentage Overall
Answer them	14%	20%
Not say much	10%	21%
Depends	33%	25%
Not sure	29%	18%
No response	14%	16%

Table 6: What respondents in Community E would do in response to police questioning

By contrast, in community E, the proportion of people who responded “depends” or “not sure” is high. This suggests behaviour beyond trusting/not trusting, in which some police activity meets with the community’s approval but others do not, in line with the discussion on police practices above. The community appear to be aware of this and modify the extent of their cooperation to the degree that they support police intervention in a problem.

Community Approval

Community approval is relatively high, with 95% of people are happy to have the police living in their community.

What respondents think about how the police are working	Percentage
Doing a good job	71%
Not doing much	5%
Sometimes good, sometimes bad	24%
Doing a bad job	0%
No response	0%

Table 7: What respondents in community E think about the way police in their community are working

Again, the proportion of people who believe the police are doing a good job is in the top third of the communities surveyed. The other communities that have a comparably high an approval rating are all smaller (up to ten times smaller) than this one. Given the challenges of policing larger communities in particular, the police appear to have had a high level of success. The high approval rates appear to be due to many of the common reasons in other communities; a focus on violent crime and alcohol, interaction with the community including taking some direction from elders, responsive rather than pro-active policing, and a willingness to use discretionary power to focus on issues other than traffic offences.

The OIC in the community appears particularly highly regarded in the community, with a number of people mentioning how he is a “good man”. There appears to be a level of understanding of the limits of police discretionary powers, with many complaints centering around structural/legal issues or complaints common across many communities. In common with nearly every other community surveyed, people know that “the coppers, some of them good ones, some of them bad ones” and that there is a desire for police to be stationed in the community for longer periods. The visit to this community happened shortly after the release of the coroner’s findings relating to a death in custody in West Australia of Mr. Ward, an Aboriginal person “cooked to death” in the back of a security van³⁰. People in the community had seen reports of this on television and this reinforced their fear that they may get a bad police officer in the community.

COMMUNITY F

Crime Patterns

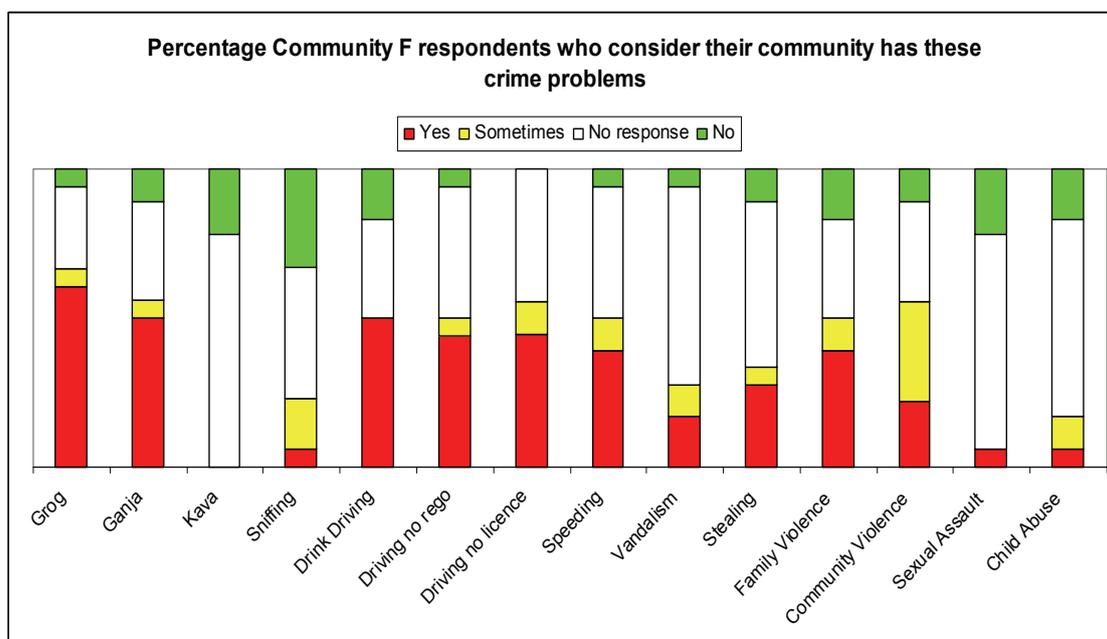


Figure 30: Percentage of Community F respondents that considers their community has these problems.

Community F is very close to the average across all perceived problems, however, the proportion of ‘no’ responses was relatively low and so there is some uncertainty over the extent of crime problems in the community. Ganja is above average level. According to respondents, alcohol is brought back from a hotel a significant distance from the community and drunk at the border of the wet area in drinking camps which locals see as relatively ‘safe’, with water and shade.

³⁰ <http://www.abc.net.au/news/stories/2009/06/12/2597089.htm>

Changes in crime since the arrival of the police

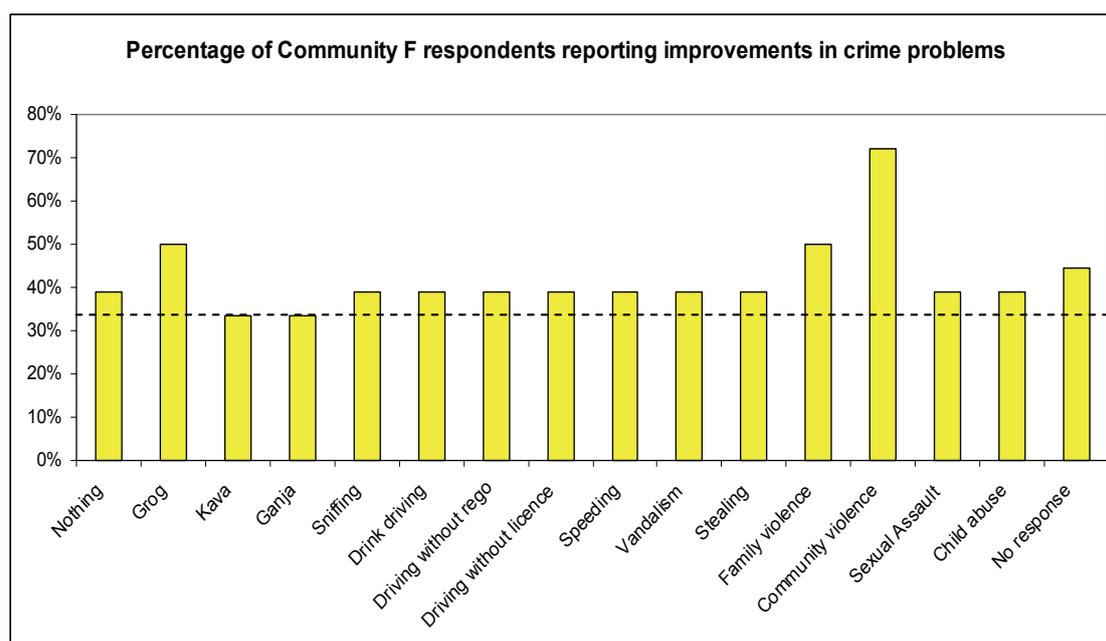


Figure 31: Percentage of Community F respondents reporting reductions in crime

Similar to Community C, Community F has a high proportion of those who consider 'everything' has changed (33%) as well as those who believe 'nothing' has changed (39%). Other than this, people have nominated community violence in particular as improving, with some improvement in family violence and alcohol problems. Two examples of statements that people made in support of this crime reduction are; "No more speeding, no more argument, people walking around at night. We have night patrol. They doing everything alright" and; "less fighting, less grog, things are resolved quickly. Not as much blood. Kids aren't seeing that violence escalate."

Police practices

Police here have been concentrating on traffic offences, alcohol, and responding to violence in the community. Unlike other places, it appears that police are prosecuting for traffic offences, for example, driving unregistered motor vehicles, and giving out fines. Police appear relatively active in this area, with one man living on an outstation complaining he can't use his trucks to round up his horses because of police checking vehicles on even the remote dirt tracks for roadworthiness. It is highly unlikely police would go on to a cattle station and check all the vehicles being used on the station for current roadworthiness certificates, registration, and drivers' licences. Enforcement of these rules on bush tracks on Aboriginal land has, along with enforcement of rules of gun ownership, has stopped a lot of the hunting practices in the community.

The police appear spend a lot of time on the main road checking cars as they come back from the nearest pub. The police have taken the keys of a car off someone who was over a hundred kilometers from his community, leaving him without a means to get home in an arid area with no water. One person complained that the police were trying to stop people drinking at the boundary of the wet area. The 'active' nature of policing in the community is evidenced by the comparison of people reporting having been in trouble with the police as compared to reporting a problem to the police is the highest; 16%

more people reported having been in trouble with the police; this is on top of 33% of respondents who reported they had been in trouble with the police, the second highest in any community surveyed. There's a number of reports of violence, with 22% of people seeing the police as "rough". This was one story mentioned:

"My brother had a foot injury, sore from being hit, he couldn't walk properly. They dragged him to their Toyota, they were really rough. He wanted them to take him to the clinic. but they wouldn't take him and he had to wait one night in the cells for his wife to take him to the clinic. He wanted to make a statement so they would let him go but they didn't want to talk to him. They always get rough with people. They should be a little bit kind. They getting rough with people."

In addition to these claims of rough behaviour, there were a number of respondents the complained about police driving into people's yards or walking into people's houses with no permission and no immediate cause.

At the same time, nobody responded that they believed the police didn't respect the community. The police are involved with the youth and children, putting on films, and opening up and shutting the youth centre in the evenings. Previous police have been involved with the football. 72% of people believed that the police listened to the community, however, there appeared to be some problems with effective engagement, based on the observations of the researcher. Women here have been active in reporting domestic violence issues to the police. As one put it:

"Women happy to talk to men police. People happy to go and tell the police. I always make a statement about fighting. I'm happy with the way the police sort out the fighting. I've had fighting with my husband but it's stopped now."

By contrast, the night patrol was not mentioned by many respondents. One person mentioned they were "good". It appears that most people, however, are happy to go to the police rather than through night patrol.

Community Approval

It appears that this active policing has made a significant difference to the community. There was a ceremony when the police station first arrived, as a measure of how happy people were to have a station in their communities. There was a big increase in satisfaction by people between when the police first arrived to the time of the research, the second highest of any community. With 'no response' removed, at the time of the establishment of the station, 67% of respondents reported that they felt happy or a similar positive feeling, with 33% ambivalent and none negative. Now 83% of respondents reported they were happy or safer, with none ambivalent and 17% reporting negative feelings like anger or fear. It's Interesting how those originally ambivalent about police presence, through their experience of active policing, have solidified between positive and negative feelings about the police. There are still issues with roughness, abusive language and polices' willingness to fine or prosecute people for traffic matters. Statements which indicate this include:

- "It's good having police here but they gotta be good, not too rough for our colour."
- "It's alright pull you over, get your grog but not to get smart for Aboriginals."

- “Police is alright for fighting, stopping all that, not to get really smart on the road. Police caught me a few years ago, said I was lucky I had kids otherwise he would make me walk back.”
- “We should be allowed to drive unregistered locally”

COMMUNITY G

Crime Patterns

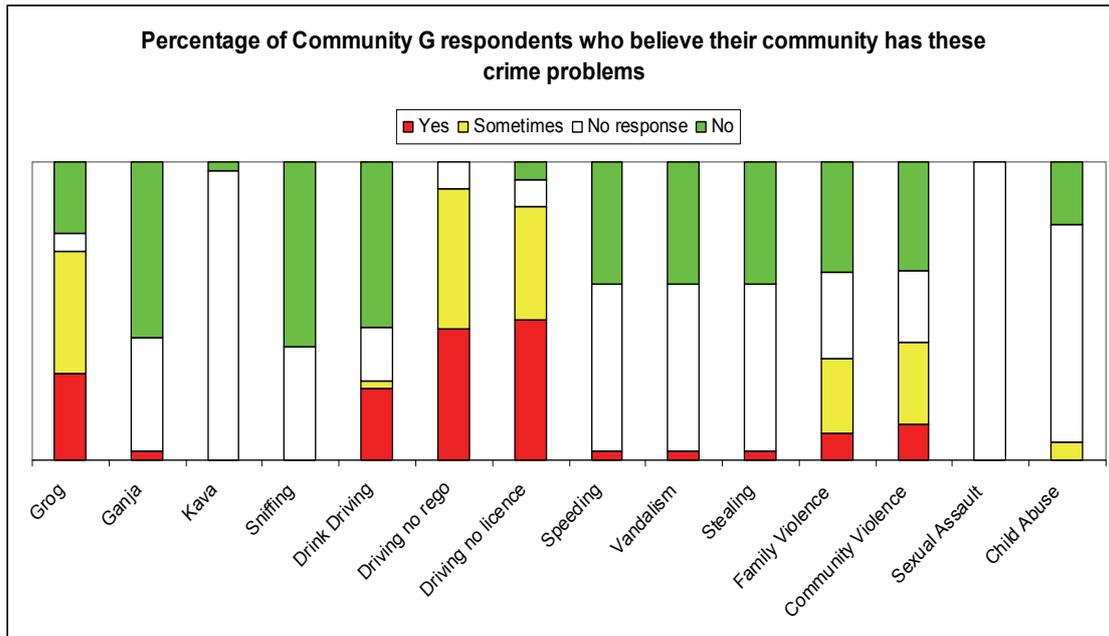


Figure 32: Percentage of Community G respondents that believe their community has these crime problems

Crime patterns in this community are very different from general trends elsewhere. Overall, crime is low or very low, with problems concentrated in a few areas; alcohol and driving unregistered or without a licence. Violence is low, property crime is apparently almost non-existent, and ganja is also unusually low. This is in keeping with the history of the community, which was established relatively recently as a way for some families to get away from the fighting which plagued a larger community relatively nearby. It is also in keeping with the unusually high improvement rates of crimes in this community (see below). People appear to largely ‘respect the rules’ when it comes to bringing alcohol into the community.

Changes in crime since the arrival of the police

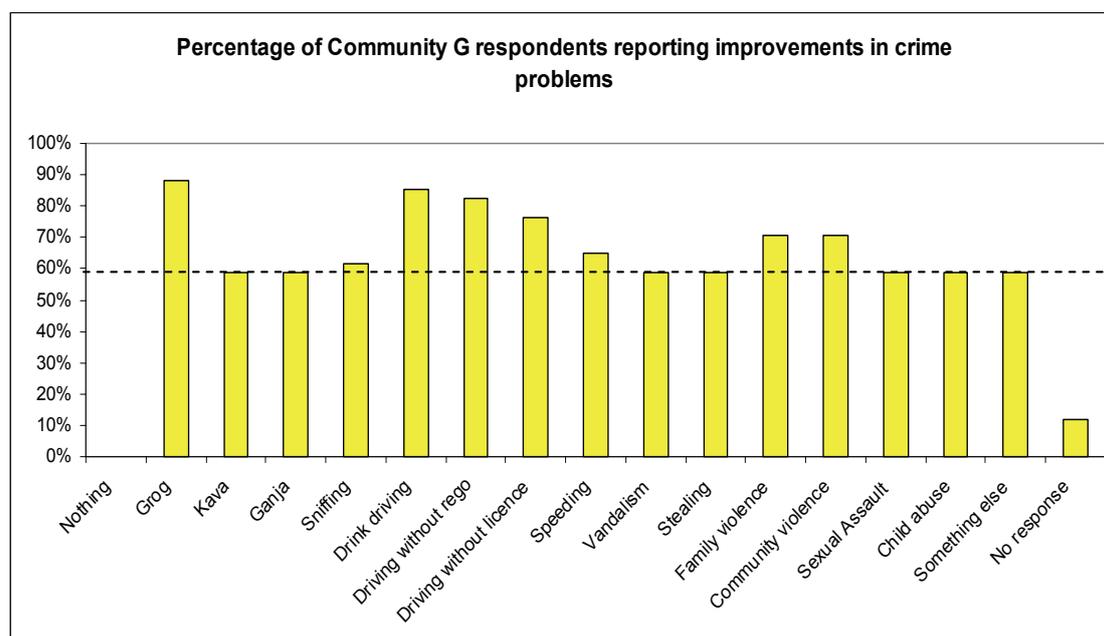


Figure 33: Graph showing the percentage of Community G respondents that reported an improvement in these problems since the police presence.

Community G respondents reported the highest improvement in crime of any community. Alcohol is particularly notable at 89% of respondents reporting an improvement. It's significant that nobody reported 'nothing' – one of only two places – and that the 'no response' rate was also unusually low. People mentioned both the police and night patrol as reasons for the decrease in crime.

Police practices

The community identified two major activities that the police do; running [driving] around and sitting in the office. The police appear to be taking a middle ground on the enforcement of traffic related offences, mainly issuing warnings before prosecuting and issuing permits when people have to travel for cultural reasons. The police appear to deal with community violence in the same way, "stopping the fight. They don't arrest anybody - just give warnings". The police in particular appear to be taking this approach with the young people in the community; they were well liked amongst that demographic because they gave young people warnings rather than prosecutions.

The police appear to have become caught up in, or even have tried to be proactively involved in, community family politics, and this has led to a large number of complaints against them, chiefly in four areas; that police favour the Traditional Owner family at the expense of others; that police have singled out one family for public humiliation; that police talk to senior men in an abusive and disrespectful way; and that the ACPO is not being impartial.

There are a number of complaints that the OIC ignores people who report a problem against one of the TOs, for example, "One time I tried to make a statement but the police said I couldn't, because they were only listening to TOs. The person who had

punched her was TOs. She's sick, single, with kidney problems." One of the families believe that they have been singled out for public humiliation:

- "The police are being rude. One time we had a meeting and they interrupted. They look back at files, saw we had problem on file, that we've forgotten, 5 years ago...In front of the crowd he said it."
- "Another time, intervention cop heard about feud in [nearby community], he's never been to [Community G] but just came and said straight out to stop fighting. They gathered together to have a community meeting about dogs and camels but he came out with that, made them feel no good. We moved to [Community G] to leave that stuff behind."
- "There was a Land Council meeting. Same family side. It's always about distribution of money. When police came to the meeting, they only talked about one side."

This "not listening" was a common complaint of people who responded to the survey.

Unlike most other communities this size, there is an ACPO in the community who is a member of one of the local families. While some people will go to him because he speaks language, and it may be a reason for the unusually large reduction in crime since the arrival of the police, there have been a number of complaints. These complaints centre around the ACPO not being impartial when dealing with people, e.g. "We have a problem with the ACPO. As police he's supposed to be looking at both sides. When he got this job he did a course." The ACPO involved the police in an argument over use of a shire asset. This was not seen as a police issue.

In addition to the ACPO, the OIC was singled out as someone who used rude language and would publicly shame members of the community. There were 6 reports of cheeky behaviour, 2 reports of shouting, and two reports of unfair behaviour. It appears that, as mentioned above, he has tried to get involved with community politics without a clear understanding of cultural issues in this area and it has lead to poor outcomes and a lack of trust of the police by many members of this community – only 18% indicated that they would go to the police for help if there was a problem; as one person pointed out "Normally only a few people who are regular informers." At the same time, people have different views of different police. One is seen as particularly good; culturally appropriate and willing to engage with the community; he patrols on foot around the community, organizes film nights for people; and goes hunting and brings back kangaroos for the old people.

However, because of the behaviour of the OIC, 70% of respondents said that the police did not treat people with respect. As one person pointed out, "When police come out [they bring] their white society rules. They should learn two ways or do cultural program. all teachers do cultural awareness program. police should do that too." One other complaint was to do with the use of tasers:

When tasers came out [used], people were scared. No talk about what taser is for or what it does. Police only explained afterwards. Tasers was used inside the compound with a locked gate. We could see him using it. He had just come out of surgery in Adelaide hospital.

Police and Night Patrol

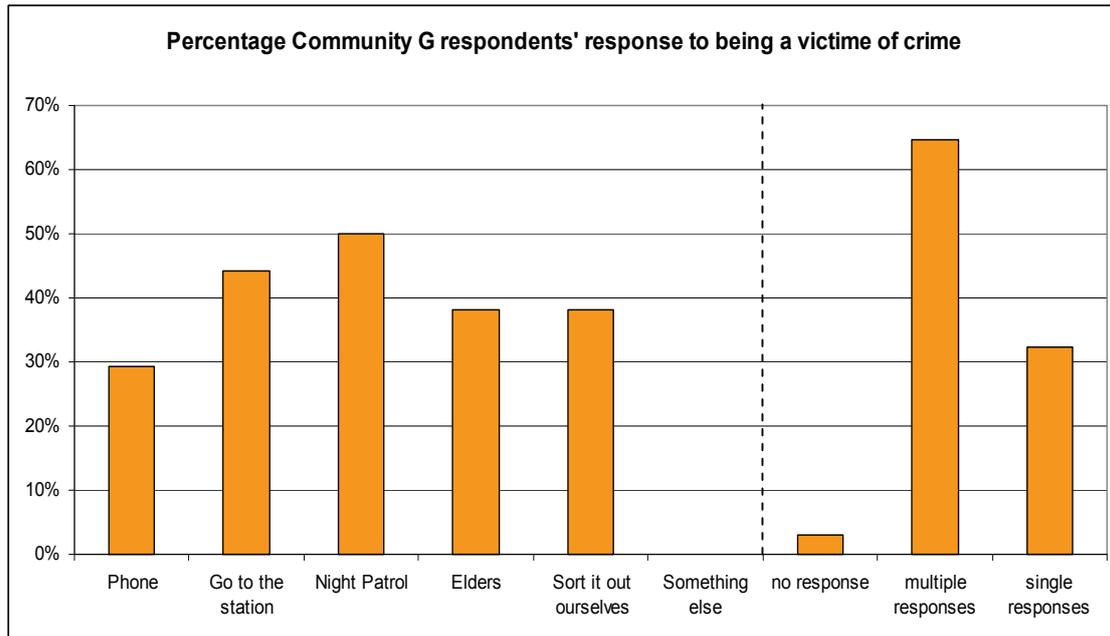


Figure 24: Graph showing what Community G respondents would do if they were a victim of crime.

There was little qualitative discussion of reporting problems in the surveys. The community was unusual in that there were a very high number of multiple responses. Use of the night patrol, elders, and the option of sorting problems out themselves were all relatively high, likely due to the lack of trust and the perceived partiality by the police from some families.

Community Approval

Although the above discussion lists a number of complaints, this is not the perception of all of the community, with many respondents providing comments regarding the police like "terrific". It appears that people really welcomed police presence there; 97% were happy that the police had arrived in their community. This is now down to 68% of respondents happy with the police. The police presence has clearly, respondents believe, brought down crime and their ACPO has assisted in facilitating community interaction. At the same time, there were a large number of complaints and this community is a classic case study of the police unwittingly or otherwise, getting involved in community politics without a clear idea of negotiating the various cultural issues.

COMMUNITY H

Crime in the Community

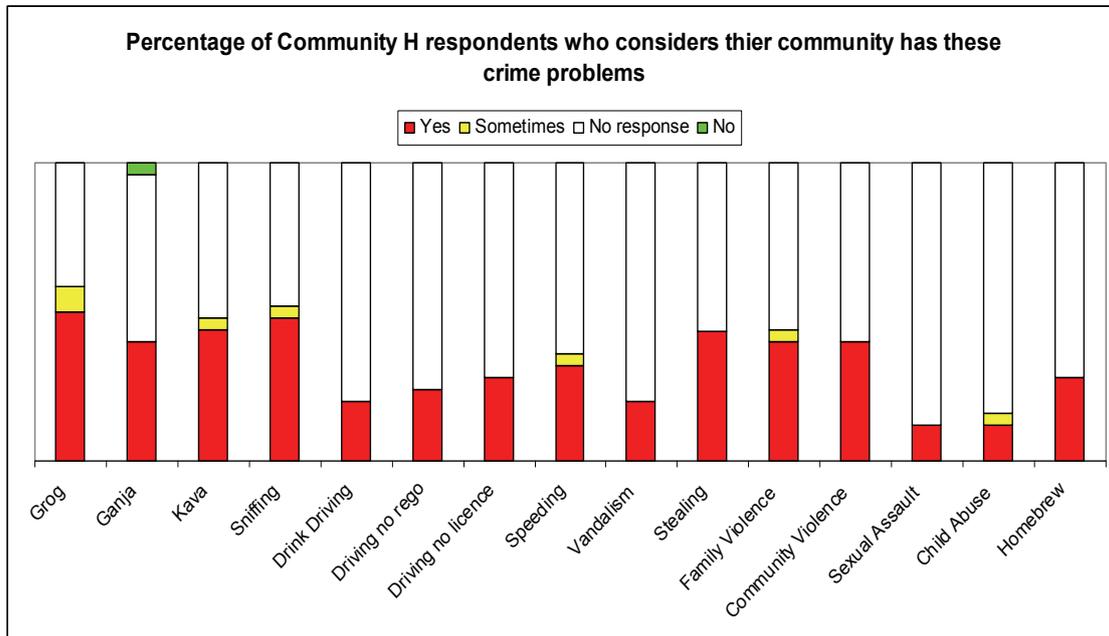


Figure 35: Proportion of Community H respondents who believe their community has these problems

Although there were a large number of “no responses”, the lack of people willing to say that the community does not have a particular problem, or even that there is the problem only “sometimes” appears to indicate that Community H has the worst crime problems of any community surveyed. This may be partly due to its comparatively large size compared to most of the other communities. Interestingly, a number of people mentioned “homebrew” (also locally known as “yees” for yeast) as a problem in the community, and an extra column was thus added to the graph. It was one of the few communities surveyed in which, when the meanings of “child abuse” was discussed, a respondent indicated that it was not limited to neglect or physical abuse but also included sexual abuse in this community “yes everything”. Kava and sniffing, problems which generally occurred only in a few communities, were both seen as widespread here. Related to this was the issue of smuggling, which some people identified as a problem here.

Changes in crime since the arrival of the police

Significant numbers of people reported improvement in problems with alcohol and other substances and violence. As one person put it, “Great changes ,everyone is really happy, the community violence level is starting to decrease.” The high proportion of “no response” indicates that the proportion of people who have perceived significant improvements is likely to be relatively high. At the same time, Community H was one of only two communities in which significant numbers of people reported increases in problems. The proportion of people reporting that problems are getting worse was so high that they have been included in figure 26 below.

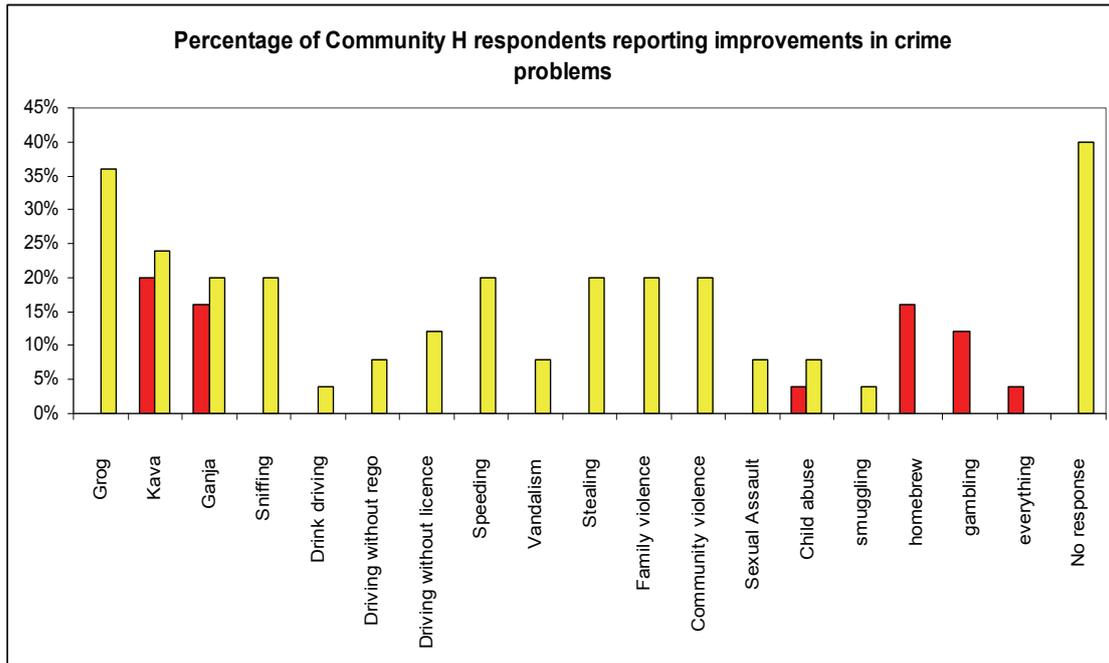


Figure 36: Graph showing the percentage of community H respondents who believed that problems have changed since the arrival of the police. Note that unlike the other graphs, this one shows responses of both improvements (in yellow) and where they are getting worse (in red). This is because, unlike other communities, significant numbers of people indicated that problems were getting worse despite only being asked which had improved. People also mentioned that a number of problems had gotten worse that were not included as options in the survey. They have been included in the graph.

Note that while violence and alcohol are almost unequivocally getting better, the proportion of people who believe that kava and ganja are getting worse are almost as high as those who believe things are getting better. It's interesting to note that one respondent suggested that child abuse was getting worse in the community. People identified a number of other problems that were getting worse – homebrew beer and gambling with cards. One person also responded that “everything” was getting worse. In the qualitative data, unlike in the chart, there is also divergent views about violence. One person stated that:

Since the police came violence is getting worse. Women think they can argue with their husbands, and they don't get hit, because police are here. Sometimes women make mistakes too, e.g. having affairs, threaten husbands, threaten to “press charges” before it wasn't happening like this. We need to balance, have equal rights.

Police practices

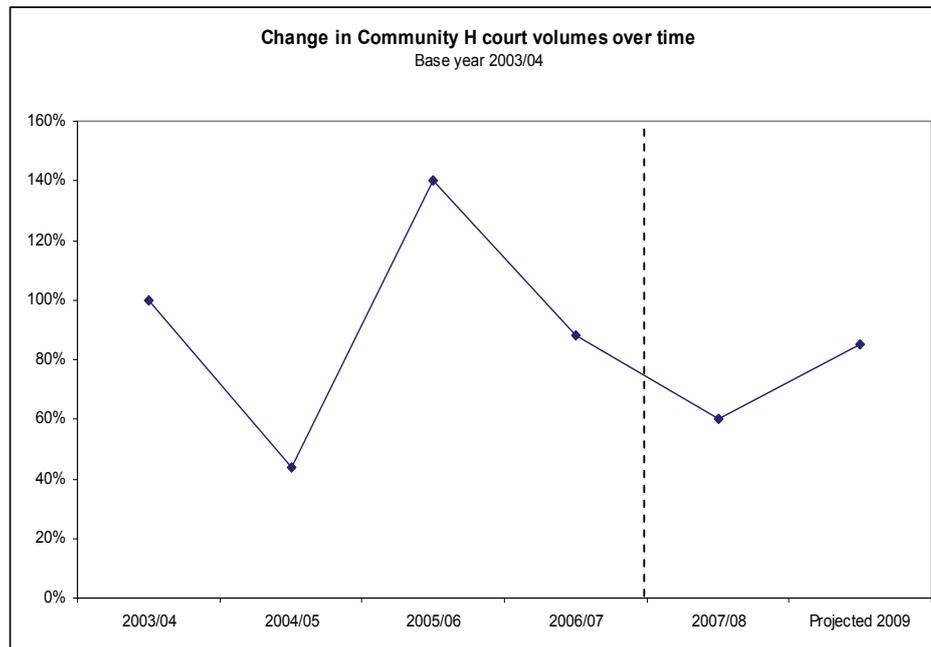


Figure 37: Graph showing changes in court volumes in this community. The dotted line marks the start of the NTER. Note no clear trends from court data

Police appear to have been active in areas of violence and alcohol, as well as involvement in issues like dogs which sometimes lead to community conflict. The police search houses and bags of people flying into the community. However, some respondents seemed to believe that the police are not active enough. The proportion of people who had been in trouble with the police – 20%, and the proportion of people who had gone to the police with a problem – 36% are very close to average for the survey. The difference between the two figures does not indicate overpolicing, and shows an average level of police activity. There is some frustration with police not dealing with the problem of sniffing, “Every single night we see the same person sniff petrol, reports piling up at the station, but they do nothing.” As sniffing is not an offence, it is unclear what the police will be able to do.

Police appear to be working through the community, and issuing warnings rather than prosecuting – most responses to the question of how police deal with an issue were issuing warnings (32%) and letting the community sort it out (20%). The police work closely with the Traditional Owners and senior clan members of the community, for example, in getting permission to enter people’s houses, to the extent that a few people complain that the police give too much weight to these senior people. This is not the same as other communities, in which people complain that the police treat certain families differently (64% of people in Community H believed everyone is treated the same). This is also significant because of the presence of an ACPO in the community, against whom there are no complaints of bias towards their own family.

Police appear to spend time building relationships with the community, with 71% saying they get to know local people (“no response” removed); and 52% of respondents having talked to them. 58% of people believed that the police respected Aboriginal culture – about average. People had different opinions on the issue although a number of people mentioned that the police were learning. The police were involved in local community

justice agreements but appear to not work to closely with night patrol. A number of people mentioned how the police appear to be “given the run-around” by the community: “It’s like hide and seek in the community with the police. The community should behave themselves, they know what’s right and what’s wrong.”

Complaints against the police appear to mainly centre around the issue of searches – the problem of police searching houses and seeing or touching sacred objects, and, in particular of searching bags, which is seen as humiliating. Not everybody feels this way, however. As one old lady pointed out, “police are checking bags. Us old people are happy to let the police check but the young people don’t like it. That’s the police job. I want them to check up 7 days a week.” Aboriginal people who participated in the survey appear to have a strong sense of personal privacy and the perceived violation of this repeatedly came out in the survey. This included police going on to areas seen as “private areas”, for example, outstations and the roads leading to them. There were no complaints of violent or verbal abuse from the police, although a number of people were not happy with how the police sorted out the problem they reported.

Night patrol and the Community Justice Forum

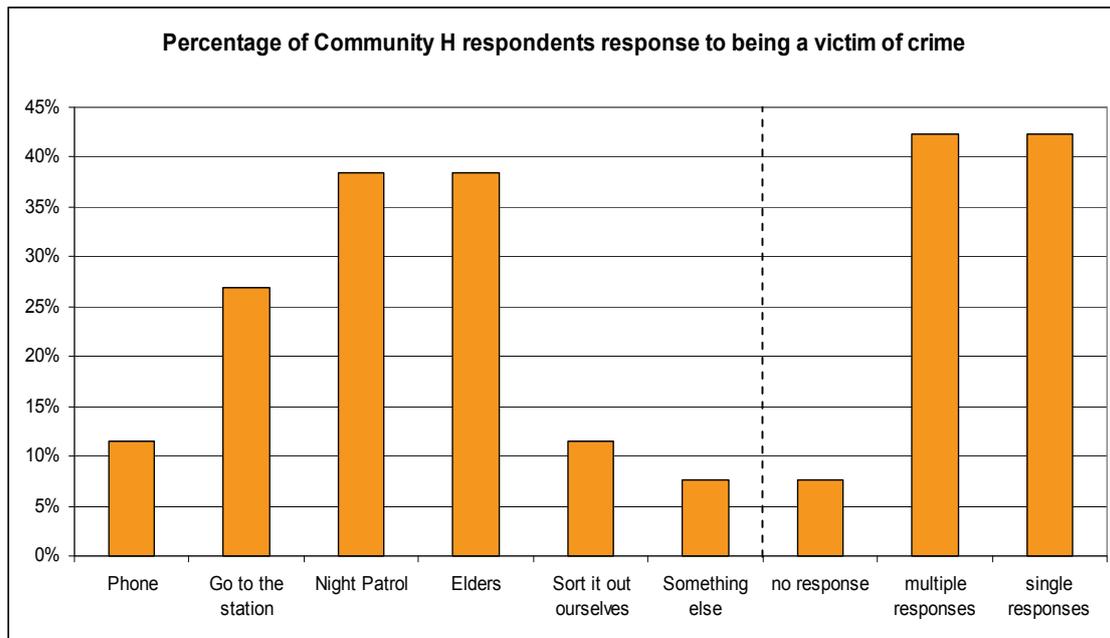


Figure 38: Graph showing how respondents in Community H would respond to being a victim of crime

Clearly, people in this community rely heavily on non-police methods of problem resolution, particularly night patrol and elders. The use of elders is particularly high compared to other communities and reflects the comparatively organized and respected nature of elders in this community. The elders legitimate certain actions by police and others in the community; community problem resolution is primarily carried out through two mechanisms; night patrol and a community justice forum, both of which are discussed below.

The Night Patrol here summarise their work in this way:

We're cleaning the kids up from the public areas, ask them to go home, chase sniffers, sometimes it's hard for us. We're working from 9.30pm to 3.30am and then we write reports up for the police. If there's big trouble, we help stop them from trouble. If it's getting bigger and bigger, we get police, we talk to the elders, get them to come... Sometimes we got trouble girl and boy, we stop them [Aboriginal] way, because police are difference. All those things happen, under age. One boy was threatening girl with knife, calm him down [Aboriginal] way. If problems go further, we report to the police, police come and help us... People talk to us first, when they need help, we have to help them first. Sometimes less problem now... We don't know exactly what they law we can use. So we used [Aboriginal] law. We [look after the] community very well in [Aboriginal] law.

The Night Patrol believe that the police do not work closely with them; they are not present at arrests to translate and explain to people. Note this these type of activities appear to be outside the Night Patrol Operational Framework; at the same time, there is a clear demand from the community to provide these services. The Night Patrol do provide evidence to the police; for example reports on break-ins; in a sense they are involved in police-type work so the line is blurred. This blurring is also due to police behaviour, apparently "police go see us tell us to go see people about kava, alcohol." Although reports get put in to the police, the night patrol believe that the police often do not act on them. Night patrol here appear to believe that while the night patrol support the work of the police, the police often do not reciprocate.

There were two major issues that the night patrol identified that leads to them being less effective than they would otherwise be; firstly, the absence of a rehabilitation facility for local youth, particularly petrol sniffers (see the discussion above under 'changes in crime since the arrival of the police') and the lack of communication and coordination between themselves and other individuals and organizations in the community, particularly the police. In common with other communities, there appears to be a lack of communication and clear protocols on responsibilities between the police, the night patrol, local justices of the peace, and the community justice forum. Although there are a clearly a fair number of people and groups working for community safety, the lack of coordination between them leads to less than optimal outcomes for the community. This lack of communication extends to the community; people are often unsure of what the night patrol does, or believe that it isn't effective.

The other main initiative on safety and justice is the community justice forum. Due to an incident with the police in the community, there was mediation between the police and the community. As part of that, the police agreed to recognize that the local "Aboriginal parliament" rules should be seen as a source of authority; another aspect was that the community justice forum should be set up with representatives from all local clans. As one participant put it "[Community H] is organizing itself." The role of this forum is to:

[D]eal with grog, homebrew, break and enter, how to be close with the police, work together, how they can deal with problems. We've been trying to help people here not get into trouble. How to get discipline to the people so they won't get into trouble. Two disciplines, men and women from men's ceremony, follow what old mens need

you to do. In the past we used to listen to old people and now we're trying to help young peoples not to do the bad things. We just formed that [forum] last year, we got two chairmens, men and women at separate meetings, which is good.

The forum has authority from the "Aboriginal parliament" and it is envisaged the night patrol will report to it, and that it will find a solution to the problem of sniffing in the community.

While the development of the Community Justice Forum is potentially a good step forward, and is in line with recommendations including those of the *Royal Commission into Aboriginal Deaths in Custody* (Johnston, 1991) and the *Little Children are Sacred Report* (Rex and Wild, 2007), at the moment, the establishment and operation of the committee appears stalled. While they have authority from the Aboriginal side, there appears to be a lack of direction; a way of working through community safety and justice issues, working out protocols, responsibilities and so on. Unlike in the case of the extraordinarily successful Community Safety and Justice Committee in Ali Curung (see Ryan, 2001; 2004) there is no facilitator to support their work. Presently, the forum has a very low profile in the community and there are questions of whether it is "properly recognised by Australian law" and by the Northern Territory and Commonwealth governments.

Community Approval

80% of respondents are happy with the permanent police presence, with only 4% unhappy with the permanent presence of police. This is slightly above average for the survey. Some people are happy with the police, for example, this person's story: "They're helping [Aboriginals] with breakins, supporting people. With husband, some fighting. Its better now. Police and doctor are supporting more, policeman came and talked to me, I was hurting myself." People have identified a lot of problems in the community that they need police help and intervention to deal with; at the same time, few people believe that the police are doing a good job:

What respondents think about how the police are working	Percentage
Doing a good job	35%
Not doing much	9%
Sometimes good, sometimes bad	52%
Doing a bad job	4%
No response	0%

Table 7: What respondents in Community H think about the way the police are working

The majority of people have mixed feelings about how the police are working – the proportion of people who answered "sometimes good, sometimes bad" was double the average and amongst the highest anywhere. While few people answered "not doing much", many of the responses when people were asked what the police do mentioned nothing or sitting in the office – 28% - without even having this as an explicit option. There is a small number who don't want the police at all, as one respondent mentioned, "Some people not happy about police. Meeting a couple of months ago, shouting at

them to go away. Because police coming into houses without warrant paper. That's against our law.”

Although the OIC had recently arrived in the community and his policing style may have yet to filter through, the community is an interesting case study into when police are seeming to do many things right – committing to the community long-term; working with elders and respecting traditional law; having an ACPO without the ACPO being seen as biased or partial. At the same time, police have only had a clear impact on one issue - alcohol, with other problems in the community more complex. The issue of searches is a big issue that has yet to be resolved satisfactorily – in part because of the lack of clarity in law of what the police are and are not allowed to do. The size of the community means policing it is harder, with a great deal of space for things to happen without the police being aware of them. It shows the importance of clear lines of communication and protocols for interaction, a common issue in the communities surveyed. Community justice committees and the like appear to need the sort of facilitation and support that happened in Ali Curung in order to be effective and negotiate the highly complex issues surrounding community safety and justice when two sets of laws and cultures interact, overlap, contradict and even leave gaps (as in the issue of sniffing).

COMMUNITY I

Crime Patterns

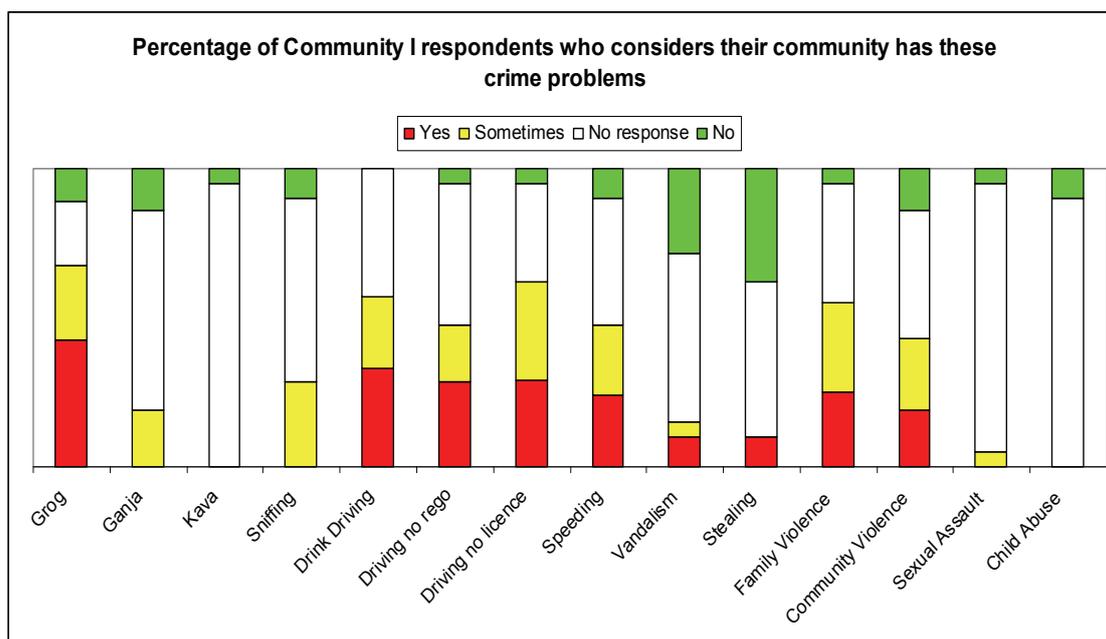


Figure 38: Percentage of Community I respondents that believe their community has these crime problems

Crime appears to be below average but there is some uncertainty because of the large proportion of participants in the survey that did not give a response. In common with other places, alcohol, violence and traffic offences were the main problems. As the previous OIC put it, residents:

...were concerned about people getting around with unregistered motor cars and young people bringing alcohol in, I had many senior

people mostly women from different locations come up to me and say “we’ve gotta stop this alcohol from coming in it keeps everyone awake at night”.

Changes in crime since the arrival of the police

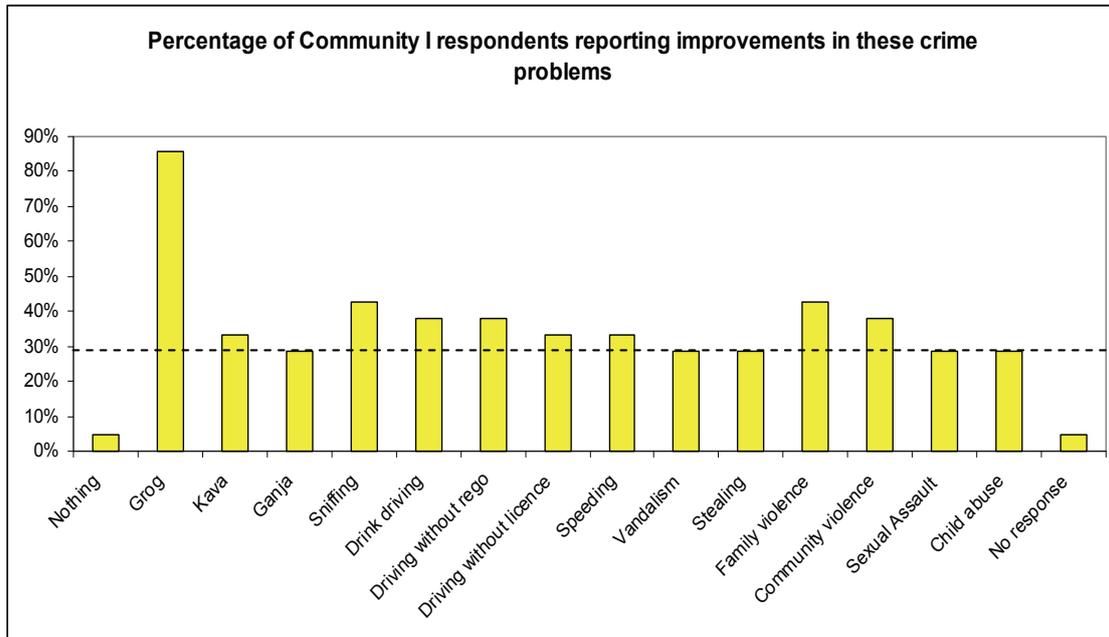


Figure 39: Percentage of Community I respondents that believe there has been an improvement in these problems since the arrival of the police

With very few participants not responding to this question, we have some degree of certainty over how residents viewed changes in crime since the arrival of the police. Very few people said nothing; 29% said everything; however when we examine the problem-specific responses, we see that an reduction in alcohol has been the main improvement, with a very high proportion of residents (85%) reporting an improvement in this area; otherwise we can see smaller proportions of participants reporting improvements in sniffing, violence and some traffic offences. As one participant put it; “everything has gone down a bit better now, because everything used to happen before the police came back. Nothing seems to be happening now.” This large improvement in alcohol is backed up by the interview with the former OIC who concentrated heavily on enforcing alcohol restrictions, in line with what he saw as both the main cause of problems in the community, and the community’s priority for police work.

Police practices

There was a high degree of congruence between the responses of the participants in the survey and the interview with the police. This is how one local described the work of the police:

They don't interrupt ceremony. They grab grog from the car. Fill ‘em up [pour it out] on the ground. Good way. Look after old lady mob good. Call them up and taken them in straight away. They look after us the proper way. Night patrol same again. They wait by the

highway. When men get noisy they chase them straight away. we don't want noise. if there's fighting they separate them [husband and wife] jealous fighting. we right up, we go straight up. Grab them straight away and put them in jail [protective custody]. we gotta get them registered, driving licence. they look after soakage bore, rocket range, boundary bore, camel camp.

By all accounts, the OIC has taken a lot of time to engage with elders, regularly consulting with them and taking direction from them; in turn they have been proactive in contacting him if there is a problem. Everybody who answered the question reported that the police respected Aboriginal culture. The one cultural issue is that, in the establishment of the station, the contractors dug up certain sacred rocks; this issue has yet to be resolved. The Aboriginal legal system continues to function well in this area; with regular business being conducted; this is prized by locals, who view it as “stabilizing” and “grounding”, and is likely a reason for below average crime levels in the community. The police don't interfere in this.

Whilst the police had taken time to consult with people, they have also been fairly active in their policing work. 33% of respondents had been in trouble with the police; this is above average. While this was high, people were happy with how police dealt with them; there were no complaints of unfair behaviour. 38% of respondents had gone to the police with a problem, which is the average figure across the communities, with all people satisfied with how the police had dealt with the problem. The police appear to use the strength of traditional family structures and law to deal with problems;

I've made decisions where I dealt with people in other ways, now I use the families a lot. I turned around and if you were like a minor offending...I would have the family involved, and explain to the family what the person's done and then the family and I would work out what could be done to correct the behaviour and that actually worked quite well.

The OIC interviewed had to act in this way because of the absence of night patrol during his time there, which, in other places, refers minor issues to families for resolution of disputes and so on. Recognising the dispersed nature of the community, and the dangers of compelling people to abandon their vehicles in a remote, arid area, the police mentioned how they preferred to issue warnings in many cases with respect to driving unregistered motor cars.

Community Approval

95% of respondents felt happy and/or safer with the police there, the highest of any communities where survey participants were asked this question; this is up from 43% which said they felt happy or safer when the police arrived (with most other people not responding to this question). This appears to support the work of the OIC who put a lot of time into building trust and relationships with community members. As he put it;

You can't just police in locations where police never existed before, it takes a long time to turn around and build a rapport with the people you suppose to be working with and policing. When you are using your policing powers when somebody breaks the law. That doesn't happen

all the time. So in the meantime a lot of other good will and community building work that you can do.

COMMUNITY J

Crime Patterns

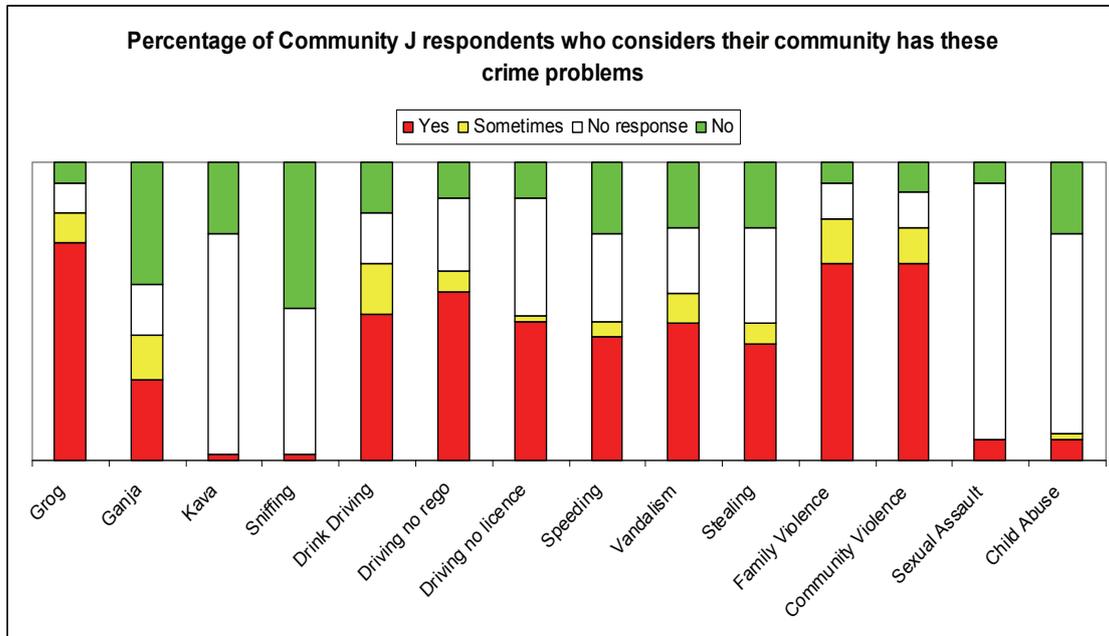


Figure 40: Percentage of Community J respondents that considers that their community has these crime problems

In spite of its small size, J is clearly a high crime community; violence and alcohol are particularly high. Traffic-related crime is also high. The community was 'dry' before the NTER; the boundary has not changed with the NTER. There is a pub near the community; members of the community can buy a limited amount of take-away alcohol here, which they drink at the community drinking camp at the boundary of the community; people can also get banned from purchasing alcohol at this pub. There is a problem with grog-running; people bringing alcohol in to the community through back roads in addition to the main roads.

Like other communities, several people brought up the issue of Domestic Violence Orders (DVOs). Conceptions of violence are different in Indigenous cultures compared to mainstream culture, in particular the gendered nature of violence (see, for example, Memmot et al, 2001). Many women and men talked about how often women may be the party that initiates the violence. At the same time, DVOs are seen as only helping one side, e.g.: "It's good that Canberra protects women and children. Women can be the troublemaker sometimes though." Here's a related, interesting issue worth including:

There's a problem with the way DVOs work. The men get put in gaol, and meanwhile the woman's running around with other men. When the family visits the man in jail his family tells him stories about what his woman is doing. The man in jail thinks about it over and over. Then when he gets out he is angry and there is even more violence.

This appears to be less of an issue to do with DVOs and more of an issue to do with the prison system.

Changes in crime since the arrival of the police

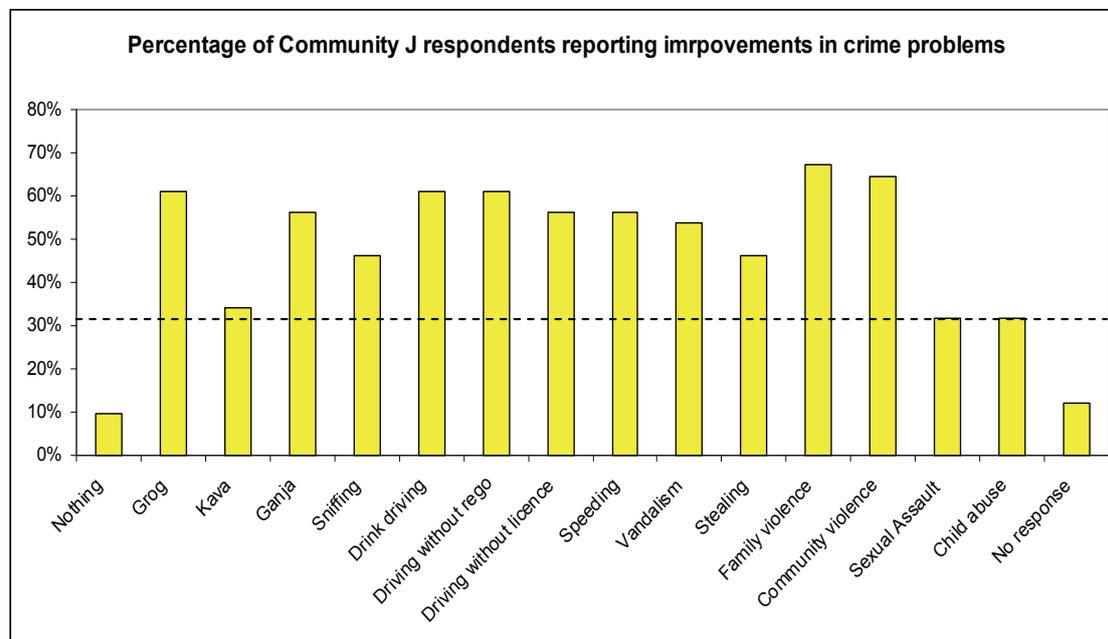


Figure 41: Percentage of Community J respondents that considers these problems have improved in their community since the arrival of the police

Few people reported nothing had changed and there were few “no responses”; a very high proportion of people reported “everything” had changed. Improvements seem to have occurred across the board, including problems more intractable elsewhere, like traffic offences and ganja. Even through the community is a comparatively troubled community, police presence has made clear improvements. The night patrol appears to have also contributed to reducing certain problems: “We haven’t had break-ins for a long time. Our night patrol watches all the young fellas. They make sure they go home. If there is some problem the night patrol sorts it out the next day.” In general, people’s responses regarding changes in problems since the police arrived are similar to the OIC’s assessment of the community:

The crime has dropped, I know people and people know me and I think they are more confident in coming down and tell me stuff. Women are happier the police are here for sure. Building that confidence, definitely a happier place from when I first got here.

Police practices

Police appear to have been relatively active in this community – a number of comments were on similar to this one “police should slow down!”. There were very few comments about police just sitting in the station, unlike most other places. Police regularly carry out roadblocks to check for grog. (At the same time, people will often drive along back roads that the police don’t know about, or come in at night when the police aren’t working.)

Police appear to do a lot of checking cars for driving licences and car registration. According to one respondent:

There was a rule here people could drive unregistered vehicles to the roadhouse and back. There's a [cattle] grid that you couldn't go past. You can't even go hunting with unregistered cars. Now they are checking cars before the grid, even for people getting firewood.

34% of respondents had been in trouble with the police, which is above average. 38% of respondents had reported a problem to the police, about average. All those who had been in trouble with the police or had reported a problem to the police were happy with how they were treated by the police and how the police dealt with an issue. As mentioned, the police here have been more proactive, attempting to deal with a broader range of the communities' problems, including more 'private' crimes, rather than just public offences, being reactive and concentrating on "service provision". Because of this, the police here, to some extent, have become an unwitting victim of complicated community politics, in part also caused by high language barriers in the community, which force the police to rely on a small number of people for translation.

Instead of sport, police have been active in engaging the community in other ways. Police have been proactive trying to arrange for locals to sit courses and get their driving licences, and they will often give a lift to young people who have court in the regional centre. There's a general consensus that the OIC works hard for the community. The OIC has been there for a long time, in contrast to other places, so there are no complaints about the police always changing.

Unlike other places, the police here have not been respecting ceremony, for example:

Police arrested people while they were doing business. When people were getting food and fuel for the business they were getting arrested for unregistered cars. We always tell [the police officer], let the men on business alone. People should respect our law and culture.

This incident, in particular, interrupting ceremony to arrest someone, was mentioned other communities in the region. The police don't appear to commonly use community dispute resolution mechanisms to the same extent as other Themis stations:

Police just come and grab one person and put them in gaol. We should sit down and sort it out ourselves. The elders are stronger here... There should be police mediation, or else the community should sort it out. That's what we want for fighting.

Unlike other places, the police do not appear to let family or community justice mechanisms deal with the problem. This may be appropriate in this community where there appears to be some division between families. Like a number of other communities, there was a complaint about policing drinking and driving, however, there was no complaints about police carrying out their duties whilst intoxicated. One last issue is the use of a taser in the community; although people believed that the use in this instance was for a legitimate reason, people reported surprise over the incident as they did not know was a taser was.

Police and night patrol

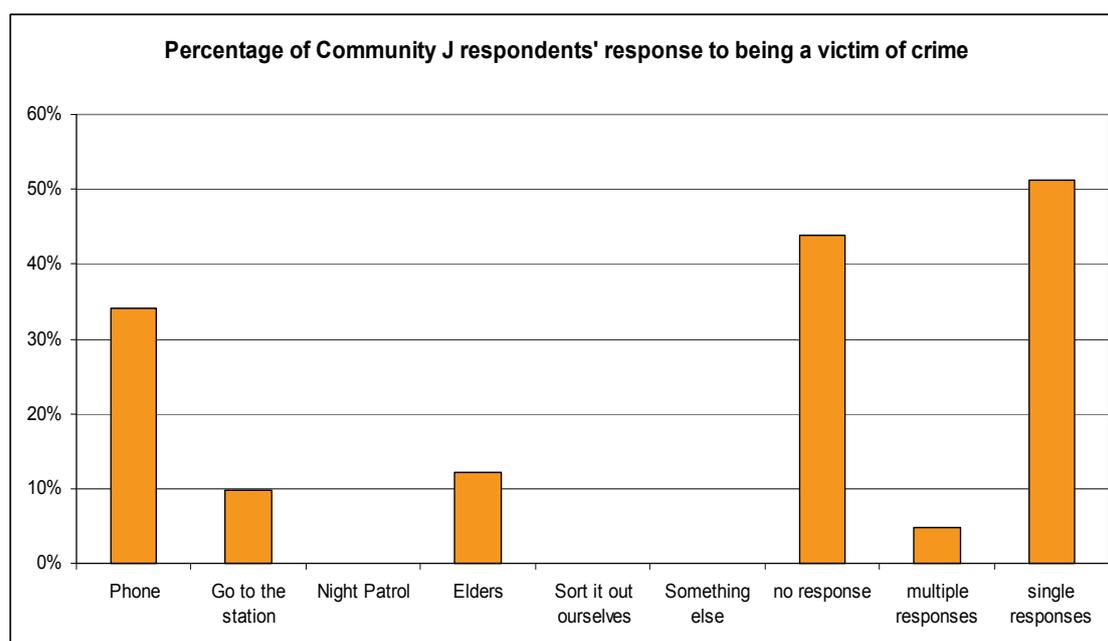


Figure 42: How participants in Community J would respond to being a victim of crime

The police station is some distance from the community so people appear to predominantly use the phone to contact people, which the police interview also mentioned. It's interesting that nobody mentioned night patrol in this context; this is likely due to both the high approval of how they deal with problems reported to them, and also because the night patrol may be hampered by being controlled by one family, in common with other places. The police in their interview mentioned that they liaise with the night patrol regularly, but it appears the degree of cooperation on dealing with problems in the community is more limited than elsewhere, perhaps because people appear to go directly to the police with a problem.

Community Approval

Feeling	When the police first arrived	Now
Positive	78%	63%
Ambivalent	5%	20%
Negative	15%	12%
No response	2%	5%

Table 8: How participants feel about the police (responses aggregated into categories)

The police are viewed less positively than they were when they first arrived due to the proactive policing which includes active policing of traffic offences and alcohol which is unwelcome by some members of the community. It's interesting that the percentage of responses indicating ambivalence towards the police has, unlike other places, risen over time, whilst those with negative views have decreased. The ambivalence is due to both the welcome impact of the police and the abovementioned police activity in certain areas

and the cultural issue with interrupting ceremony. One put it this way: “Its good to have police here but there a just a few things we want different:

- The police are breathalysing people in the drinking area. The police shouldn’t go in there, they might get hurt.
- The police are questioning people who are coming to visit.
- The police take the plates of unlicenced cars. They are not giving people a chance to get their vehicle fixed.
- We want a drug and alcohol program – like CAAPU. It should run for one week; better than one or two days.
- Most licences in the community have been taken away.”

Proactive policing has had a big impact but has caused some controversy. Proactive policing in a high-crime community has led to complaints of violence and verbal abuse elsewhere but this has not been the case in this community, in which there were no complaints regarding police treatment. This proactive policing, as well as the long-term commitment to working the community, has earned the OIC a certain amount of respect and approval here.

COMMUNITY K

Crime Patterns

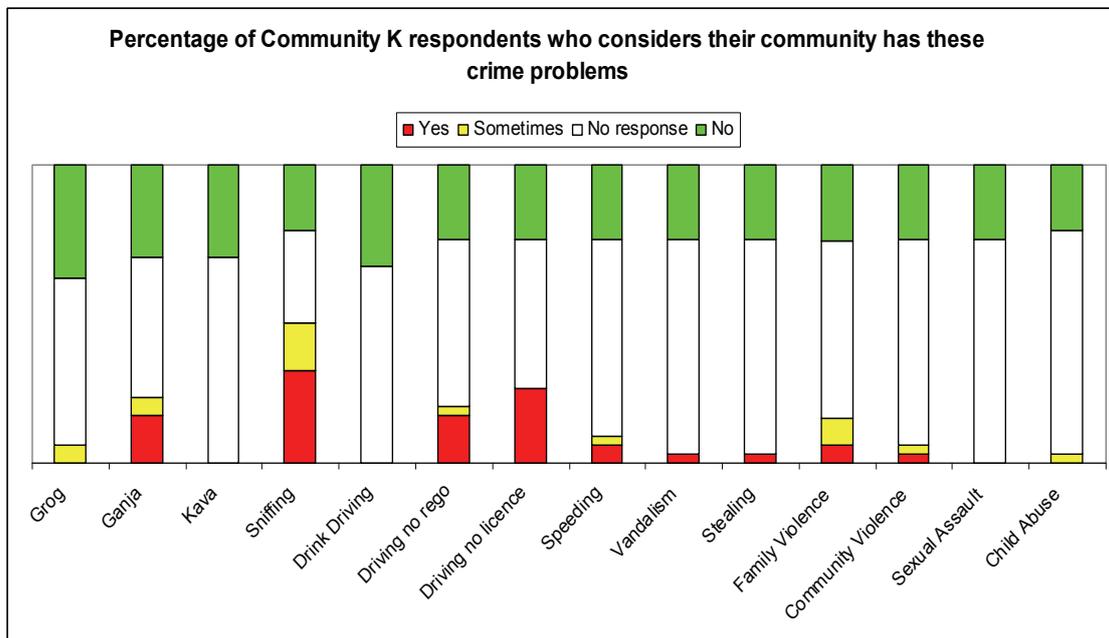


Figure 43: Proportion of Community K participants that consider their community has these crime problems

Community K’s perceived crime levels are amongst the lowest of any community (in fact the lowest if we just compare ‘yes’ and ‘sometimes’ responses), however, we should not the comparatively high proportion of participants who did not respond to this question. Grog is particular is remarkably low; property crime and violence are also very low. Sniffing was the one significant problem. Although crimes were generally low, people

believed that many people passed through their community taking drugs and alcohol to other communities. People stated they policed themselves before the police came so they never had many problems, but that they had wanted a police station because existing ones are several hundred kilometers away.

Regarding alcohol, people said they generally drank in the regional town or at a drinking camp outside the proscribed area (both of which are a several hundred kilometers away). It is one of the communities where people are sometimes getting ‘stuck’ in town when they go there to drink or for other reasons, with related issues of homelessness, arrest and subsequent criminalization. People believed that they were responsible drinkers and wanted a permit for drinking in the community.

The lack of alternative transport also means people find it hard to attend court, the nearest one of which a similar distance away. One person mentioned how she had to pay \$800 on-way for a taxibus to take her to court to stand as a prosecution witness in a trial. It is one of the few communities which were ‘wet’ before the NTER made all Aboriginal land alcohol free. People believed that they were responsible drinkers and wanted a permit for drinking in the community. The community is spread out, with services, including the police, several kilometers from one of the main camps. The payphone there is broken; there’s no easy way to get to the police as few have cars. People have to walk to the shops, to work and so on.

Changes in crime since the arrival of the police

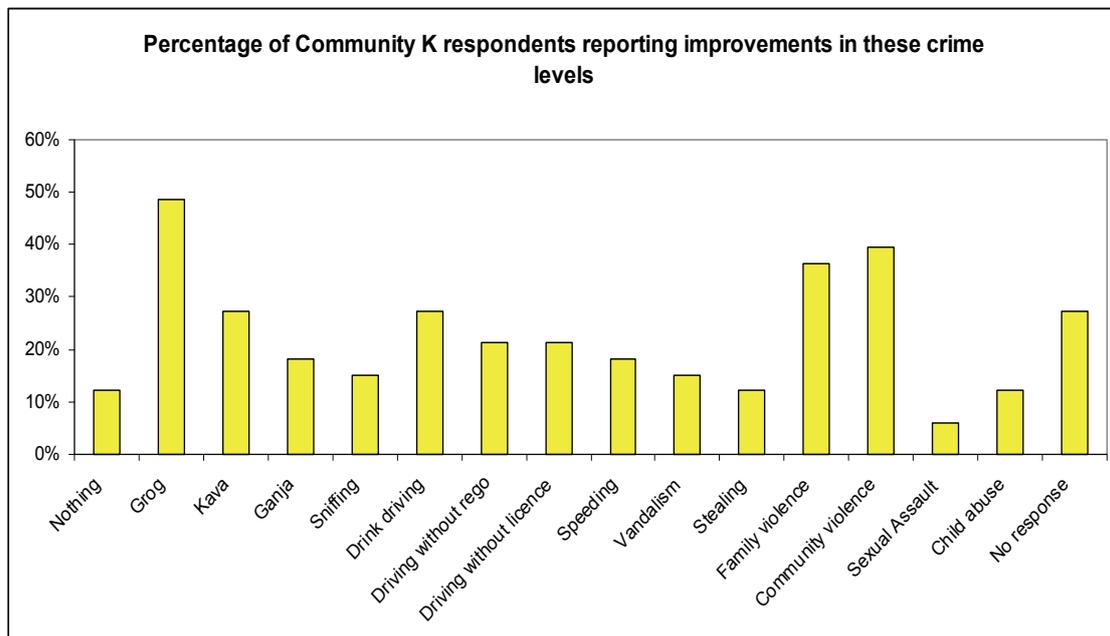


Figure 44: Percentage of Community K survey participants that believe there has been an improvement in these problems since the arrival of the police

Reports of improvements in the community are average for the most popular offences, with typical spikes on grog and violence and lower improvements for traffic offences and property crime. Nobody responded ‘everything’, which accounts for the high concentration in improvements in particular crimes. According to a local, these improvements have occurred “because of combination of police and change law.”

Police practices

Police appear to be less active here because of the respected night patrol dealing with many issues adequately without police support, and because there are few problems with violence in the community. Many members of the community indicated that they would go through night patrol, police would only be contacted if someone wanted to press charges, "as a last resort". In line with this, 34% of people had reported a problem to the police, below average. According to one person, protective custody has only been used once, for someone who was in a car drunk. Police spend time on the main road checking cars for alcohol, kava and marijuana being taken through to other communities. They also appear, according to respondents, to be checking seatbelts, gun licences, driver's licences and car registrations on the main road.

The community blame the death of someone in the community on the police. As a result, the community is sharply divided between those with favourable views of the police (following, family A) and those without, those without being the family of the person who died (following, family B). The police have largely withdrawn from contact with the area in which those with unfavourable views of the police live. Night patrol is controlled by family A. Family B has little access to justice; the one public telephone is broken and there is no mobile phone reception. Services, including the police, the clinic, the school and the shop, are all in Family A's area, an hour and a half's hour's walk away.³¹ As a result, there's a strong feeling that the police are unfair; 74% of respondents (no response removed) reported police do not listen to both sides and 85% of respondents (no response removed) reported the police do not treat people equally. This was the highest of any community

According to one respondent, the "OIC walks around the community, out of uniform, talks to people"; the police are engaged with the school, and some of them have been involved with sport. However, at the same time, 61% of respondents said police don't get to know the community; they only get to know a part of it. Mainly because of the death, 65% of respondents reported the police do not respect Aboriginal culture, with only 8% reporting that they do (the rest did not provide a response). Trust of the police appears limited, with only 3% of respondents (amongst the lowest of any community) reporting they would answer any questions that are asked. This low trust and low opinion of the police is despite respondents' own personal experience with the police. 32% reported having been in trouble with the police, with no complaints about treatment; however 34% reported having reported a problem to the police, which is somewhat below average. People clearly recognize that some police are good and some are bad, although one person reported "Some young fellas they getting frightened. The young boys feeling same way what happened."

³¹ It's unclear what happens, for example, if there is a medical emergency in this area, given that the phone is broken and there's no transport. As one respondent pointed out, "we got no cars here."

Police and night patrol

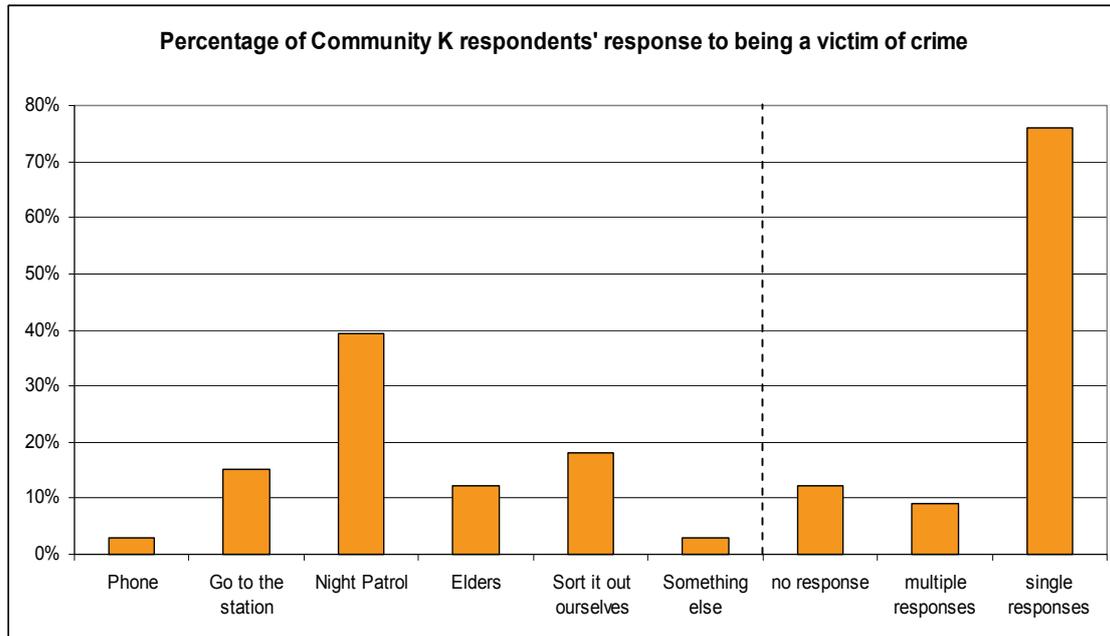


Figure 45: What participants in Community K would do if they were the victim of a crime.

People are more than three times as likely to report to night patrol than the police; the difference is unusually high. People are also more likely to deal with a problem using elders or sorting it out themselves than elsewhere. The reasons for this are low trust of the police, as reported above, and the relatively high respect held for night patrol. The very low rate for “phone the police”, as mentioned, is likely due to broken phones. The proportion of people who would go to the police is very low – most people, it appears, would just go to someone other than the police for any problem.

Night patrol believe they have a good relationship with the police. They attempt to solve problems themselves, unless it is serious. Serious matters however are in the hands of the police; at this time the night patrol takes on a supporting role. As mentioned, it's up to the clients of night patrol whether they want the police involved in a situation.

According to the night patrol coordinator:

When the police came it was stress off us. People not too sure when police first arrived, people ran away, went to outstation. Then we got to know them, building relationships with the police. We told the community they're here to help. With things in the modern world, guns, cars, grog, we need the police here.

For those who no longer trust the police, night patrol is their main option for community safety. But for these people, there are concerns about how it's mainly controlled by another family: “We don't like patrol from here, not family. Only look after their own family, they don't sort em out good way.” Instead, what they say is that they “need something different, better than policemen, we want really strong night patrol, we got a weak one.”

For a number of people, there are communication issues between the police, night patrol and the community. “What we'd like to see is police, warden [night patrol], community

working together”, there needs to be “more communication”. They feel that, “community have no say any more, we don’t have meetings any more.” Various other community justice issues were raised, including:

- Lack of local community service options
- Nothing set up for young people, particularly at night
- People can’t report for parole locally
- No ACPOs
- As mentioned above, it’s hard to get to court, or to access a lawyer.

Community Approval

People who have been in trouble with the police or who have reported a problem to the police had no complaints about police behaviour. At the same time the approval ratings of the police are unusually low. Only a bare majority of people wanted the police present in the community, the lowest of anywhere asked that question.

Whether respondents want police living in their community	Percentage
Happy	53%
Don’t want them here	28%
Don’t care	9%
Something else	9%
No response	0%

Table 9: What respondents in Community K think about the police presence

Likewise, the ratings for how they are working are also relatively low. The proportion of people who think that they don’t do much is correspondingly unusually high.

What respondents think about how the police are working	Percentage
Doing a good job	39%
Not doing much	21%
Sometimes good, sometimes bad	18%
Doing a bad job	12%
No response	6%

Table 10: What respondents in Community K think about the way the police are working

It’s clear that the death has altered people’s views of the police in general, with people searching for alternative ways of creating a safe community. Although crime is very low in this community; it appears to be as much, or more due to night patrol, and social factors which mean the natural rate is also low, even without the police. In response to this lack of trust towards the police, the police appear to have done little to try and rebuild the relationship with a certain part of the community, instead, reducing their contact with that part of the community and their policing activity there.

COMMUNITY L

Crime Patterns

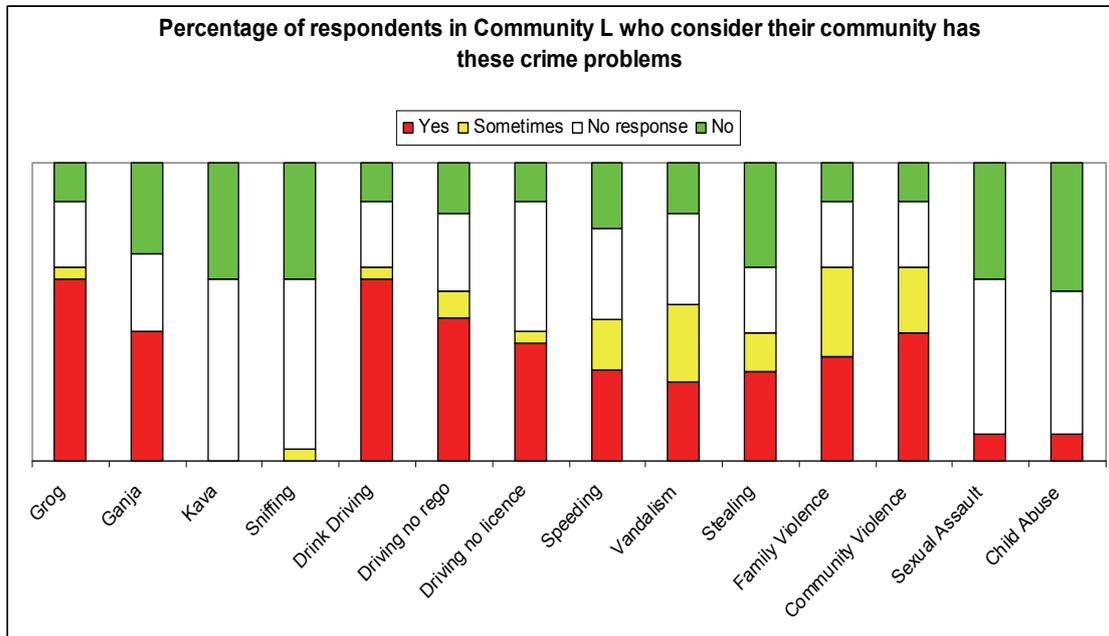


Figure 46: Proportion of respondents in Community L who believe their community has these crime problems

Overall subjective perceptions of crime in Community L are above average. Property crime and violence crimes are slightly above average. Traffic offences are average. Sniffing is unusually non-existent. Alcohol and Ganja are slightly above average. Large numbers of respondents mentioned 'seatbelts' as a significant problem that they wanted addressed by the police. One particular factor causing violence that is noteworthy is to do with children fighting. If children fight, at school or in the community, the parents will step in to defend their children. In this way, what would normally be a minor issue escalates to a serious conflict. There is on-going conflict over a long-standing feud which is seriously affecting community safety.

The drinking camp at the 'blue sign' is a number of kilometers outside the community, in an exposed and arid area with no water and little shade. People who walk back from the camp have to walk a long distance in a very arid area. People are afraid to walk back at night for spiritual-cultural reasons, so they walk back during the day. There is no way of someone getting from the drinking camp to the community other than a 'sober bob' driver or this long and dangerous walk. Much of the violence occurs at this drinking camp, which is not regularly checked by police and night patrol are not allowed to go there.

Changes in crime since the arrival of the police

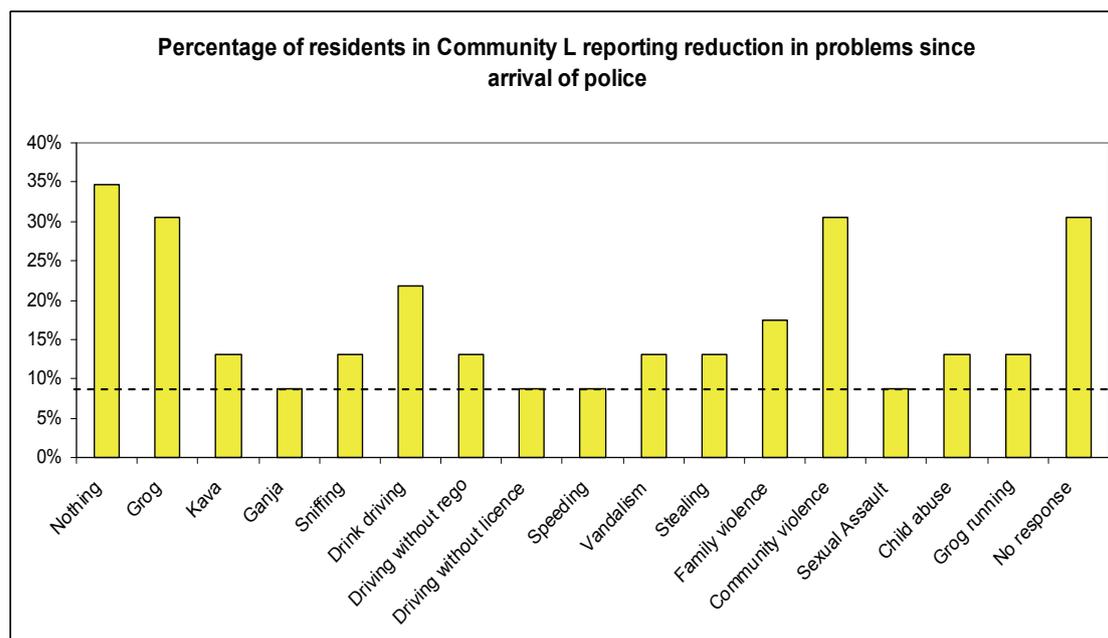


Figure 47: Percentage of Community L respondents reporting reductions in these problems since the arrival of Themis police

9% of respondents reported that 'everything' was better. The line on the chart marks this everything response. Some care has to be taken with interpreting the data for improvement in individual crimes below this line based on this. All of the figures represent below average improvement in crimes. The percentage of respondents who reported 'nothing' was three times the average rates for all the communities surveyed. Improvements in alcohol and gambling are also partly due to income management.

At the same time, this community was second highest for people reporting things were still getting worse after the police came, with five people mentioning drink-driving as getting worse, and other people mentioned ganja, driving without a licence, speeding, and several people mentioned that stealing and vandalism was getting worse. People believed that stealing and vandalism were getting worse because of recent incidents that had occurred and were blamed on teenagers coming in from outside the community.

Police practices

The police here appear to be less active than any other community surveyed. Responses to questions about what the police do there were overwhelmingly along the lines of this one; "they just sleep all day. They don't even drive around. Just staying inside". It appears the police here rarely even patrol in cars. When they are called to a crime, they arrive very late. An example would be the response of a worker at the women's centre, who explained that "when a big disturbance happens the police wait an hour or so before responding. They don't come when people at the women's centre call them, or if they do come it's too late and it's all over. Another said that "It's like we don't have police out here. That's what I feel". The women's centre apparently no longer bothers to call the police. Another time, "there was ongoing domestic violence problem. The neighbour reported the problem to the police, who told her it was not the police's business. He told them, what was he going to do about it?". The police do not appear to

be involved in any relationship-building activities with the community, including the involvement with sport that happens in the majority of the communities surveyed. The residents appear to know less about the police stationed there, and have less of a relationship with them than other communities. Unlike other places, police appear to spend little time searching cars for alcohol. One respondent believed that police only searched cars leaving the community, not coming in. People can't get a car or gun licence or car registration at the police station. To be fair, part of this low police presence is also due in this case to the police having to serve a number of communities.

22% of respondents reported being in trouble with the police; below average, again indicating relatively less-active police. There was only one complaint of unfair behaviour. At the same time 48% of respondents reported going to the police for help, with a number of complaints about the police not being there, or not responding to the problem.. This suggests a reactive policing style, with an above average proportion of respondents going to the police. However, there were no complaints of violence by the police, but a few complaints of rudeness when dealing with people in trouble with them. There were some general complaints about police being heavy-handed dealing with a break-in by youths, including questioning a child without a parent being present. There was only one complaint about the police conducting searches of houses, however, this happened when nobody was home, which appears to contradict police powers in this area.

Police and night patrol

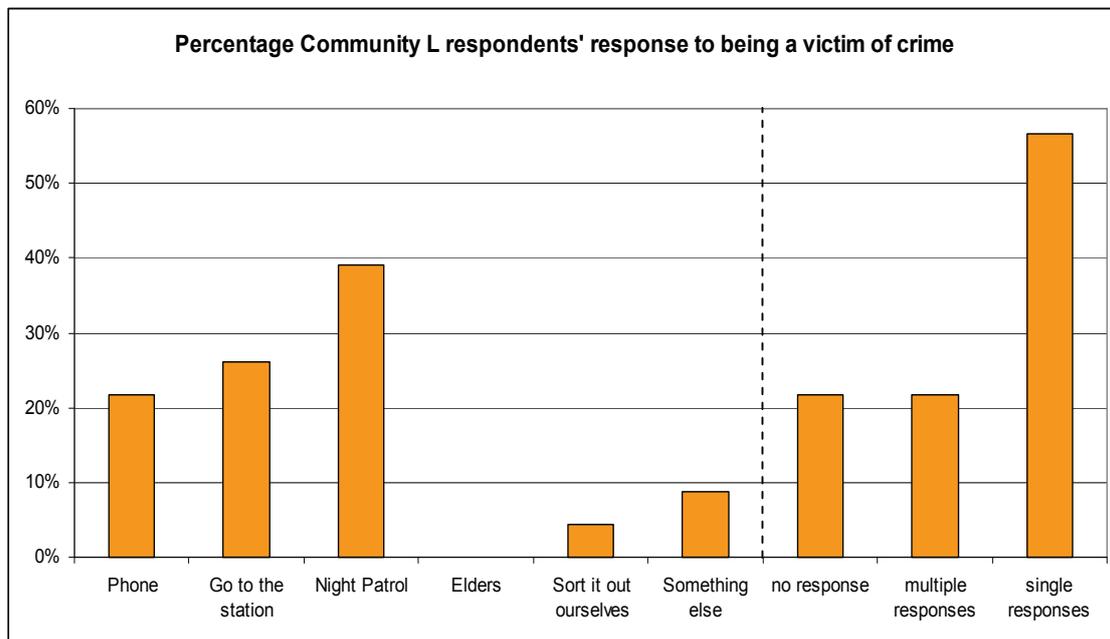


Figure 48: Graph indicating how participants from Community L would respond to being a victim of crime.

Single responses were high; the proportion of people who would report problems to night patrol rather than the police is also significantly above average. This is likely due to the negative perceptions of the police by the community (see below for a discussion). Night patrol is also relatively well-organised and staffed in this community. The police appear to rely on it for a number of issues, including translation.

The community is characterized by long-standing conflict between two families. It's a problem in that night patrol is only providing transport to one of the families at the moment. At the same time, the police have little ability to intervene positively to deal with this conflict, as they have little understanding of the history of it. Night patrol believes that it could be better placed to deal with the conflict, but it also seems to be, in part, a victim of that conflict. Some external party may need to intervene some external process may be necessary in order to deal with this on-going conflict, as the police and night patrol are unable to deal with it.

Community Approval

Respondents feelings about the police	When the police first arrived	Now	Change
positive	43%	22%	-21%
negative	30%	26%	-4%
ambivalent	0%	13%	+13%
no response	26%	39%	+13%

Table 11: Table showing respondents feelings about the police at the start of Themis to now. Note that responses have been aggregated into positive, negative and ambivalent.

People in Community L had by far the most negative feelings about the police of any community involved in the research. There has been a significant drop in positive feelings towards the police, suggesting that these negative feelings are a result of the experience of people with the police. Interestingly, this negative experience is not due to particularly heavy-handed or intrusive behaviour from the police but from their lack of action to deal with crime in the community and their lack of impact on crime levels in the community, coupled with their inability to deal with the factors causing crime in the community, and also their failure to build a relationship with in the community, in part due to their high turnover.

COMMUNITY M

Care should be taken in interpreting the quantitative data in this community because of the relatively small sample size and the skew of participation towards older members of the community. At the same time, the qualitative data is of relatively good quality.

Crime Patterns

Few responses prevent the drawing of clear conclusions about problems in the community. Substance abuse appears to be relatively high, with kava identified as a problem, and sniffing higher than over places. Driving offences are relatively low; property crime is comparatively high; indeed the store was closed at the time of the visit by its managers because of a recent break-in. Interestingly, whilst family violence was a problem, community violence was in comparison perceived to be far less prevalent. This may not or only be partly due to the police presence. As one person pointed out, "community violence over money or kids, the community stops them. We're not sure about sexual assault, we never know we are worried about it. We never heard of child abuse but it could happen."

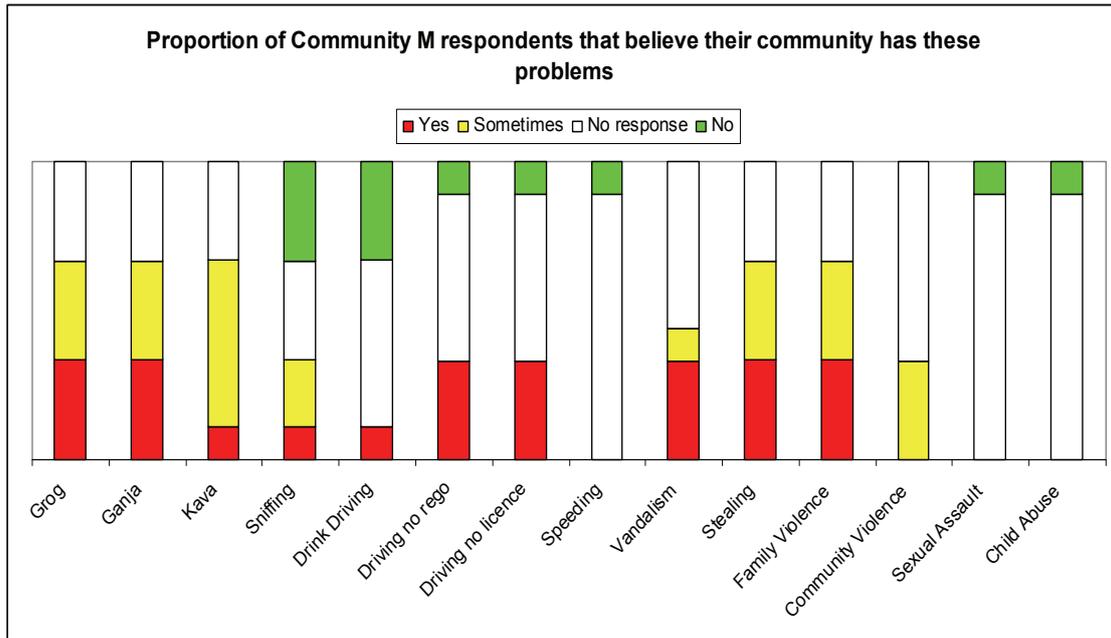


Figure 49: Proportion of respondents in Community M that indicated their community has these crime problems.

Changes in crime since the arrival of the police

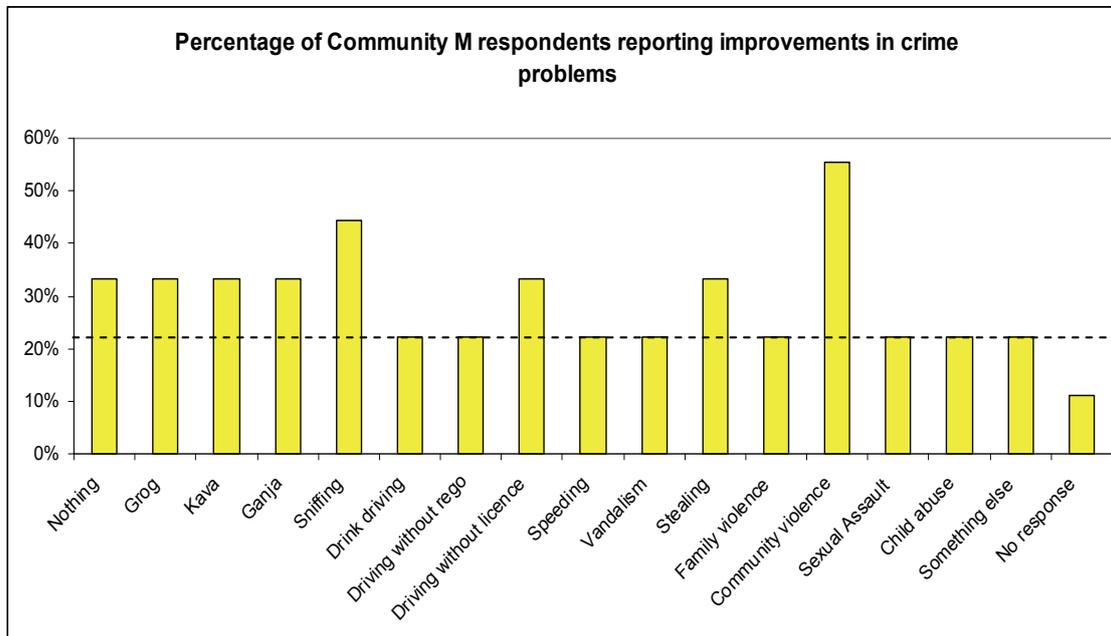


Figure 50: Graph showing the percentage of Community M respondents that believed crime had improved in their community with the police presence.

Over a fifth of respondents believed everything was getting better; a greater proportion (one third) believed that nothing had improved since the police came. More than half believed that community violence was getting better. Substance abuse also appeared to be getting better. Some participants also mentioned that sniffing, grog-running and

break-ins are getting worse. Sniffing appears to have improved because of measures the community themselves have taken; “we used to have sniffing here, then we had a big meeting, now it’s stopped.”

Police practices

Policework in the community appears to mainly involve searches of bags of people coming in by plane and searches of cars of people entering the community for banned substances. A number of people picked up on the police focus on alcohol, ganja and kava. Police also appear to focus on dealing with public order issues; public fighting, arguing, drunk and disorderly and the like. In common with a number of other communities, police appear not to be strictly enforcing traffic offences within the community, for example driving unregistered cars. This is not seen as problematic by the community. However, there are a number of stories of the police ignoring domestic violence and other family violence issues, even when reported to them or when people go the police for help. For example, “if there’s a big fight they will come. If husband and wife fight, even with weapon, the police don’t do anything, they just stay in the house [station]”; another is:

Police just chasing all the drugs, don’t want to help with the serious problem. The other day there was a fight and someone got stabbed in the back. They went to the police station. The police said it was their own business, they didn’t do anything.

Another person stated that it is “sometimes hard to get the police to investigate.” A recurrent theme was that, in the cases of break-ins to the shop and so on, rather than investigating, the police “tell family, you go and find out.” Unsurprisingly, “sometimes the local people, the council find it very hard.” People wanted more support from the police in dealing with break-ins and expressed disappointment the police were not more active in dealing with the issue.

Rather than sending people to court, the police appear to use their discretionary power to either give warnings or lock people up; nobody mentioned the police sending people to court; several people mentioned “interview” as a way in which police dealt with crime in the community. Police activity appears to be generally low; a number of people believed that the police did very little. Objectively, no participants in the survey had been in trouble with the police, unlike any other community surveyed; only one person had reported a problem to the police. However, it is worth noting the police appear to be treating everyone the same and not favouring certain families, which has happened in other communities; 88% (“no response” removed) of respondents believed that the police treated anyone the same, the second highest of any community surveyed.

The police appear to not be very active in engaging the community; only one third of respondents had ever talked to the police; below average; police appear not to be involved with children or sports activities the way they are in other communities. A number of respondents believe that the police do not assist people in obtaining a driving licence. The general lack on communication between the police and locals was raised by a few people.

The proportion of people who believe that the police respect Aboriginal culture is relatively high, at 79% (with “no response” removed). According to respondents, “they know not to disturb men’s business”. Like other communities, people identify certain

police as respecting culture, and other that don't; "One does, that [person] is [good]. The others are too rough, they go their own way, never looking at us elders." Previously, there was an incident in the community in which the police pushed an elder, who fell over. This precipitated an argument with the police.

A large number of complaints regarding police behaviour came from searching. Searching houses was mentioned by a some people (e.g. "They barge in, look at things, check bags, underneath mattress, they don't respect womens, couples. We had police before, he was good, he respect [Aboriginal] ways."). The most widespread concern was searching people's bags. Here is a typical statement on the issue:

"Why have the police taken on the role of customs or border control? That happens at the international entry, like Sydney. We have cultural things, private things. It's causing us shame the police seeing our private things. They search the bags of people coming from the plane. This is across [the region], all the [Aboriginal people]."

Due to the perceived failure by police to respond to reports of family violence and break-ins, and due the perceived inappropriateness of police searches of bags and houses, there is very low trust in the police by the local community. Unlike anywhere else surveyed, none of the respondents indicated that they would answer the police if they came asking questions; more than that, every response was "not say much". Similarly, people do not tell the police about problems in their community; 78% of people had not gone to the police with a problem, the highest of any community. The one person who had reported a problem to the police, a domestic violence issue concerning a family member, was dissatisfied with the police response; that they "didn't do anything".

Police and night patrol

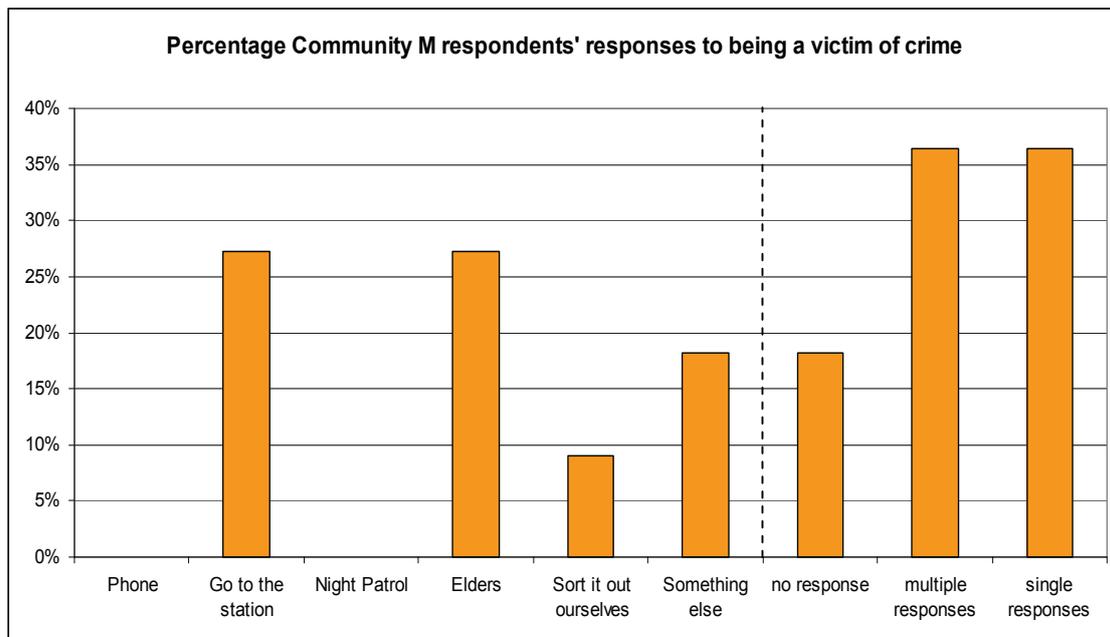


Figure 51: Graph showing Community M participants' responses to being a victim of crime.

Interestingly, nobody would phone the police, and nobody would go to night patrol if they were a victim of crime, suggesting that, in common with some other issues, there are

local concerns with the effectiveness of night patrol (as one person pointed out, “maybe night patrol aren’t working properly. We want night patrol to look after the community”). At the same time, only around one quarter of people would go to the police with a problem, with the same proportion of people going to the elders if there was a problem, one of the highest of any communities. “Something else” responses were either family, or “best for [Aboriginal people] to sort out our problem”.

As mentioned, while night patrol may not be working effectively, people still believe there is a key role for it to play in dealing with major community concerns about children wandering around at night and potentially getting into trouble:

This is what I'm worried about: All boys and girls wander around at night on the street. we need police and night patrol to work together to send the kids home. They might break in, sniff petrol, get with women wrong age and skin. Not listening to parents and family, they're not learning our culture, just doing what they want to do... now a lot of young girls get pregnant, rape.

In common with a number of other communities, the community is independently moving to setting up a body to deal with community justice issues. Unlike other places, however, this body will also deal with other issues including economic development, and will involve the established group leaders. This is seen as having a number of benefits:

Community justice members representation from all tribes, they can work with the law, police NAAJA...The people in the community will be happy if the police and elders work together. If they can’t open their door for help, that is the problem.

Like other places, however, the body will likely need some support in order to work effectively.

Community Approval

Whether respondents want police living in their community	Percentage
Happy	56%
Don't want them here	33%
Don't care	0%
Something else	11%
No response	0%

Table 12: What respondents from Community M thought about the police presence in their community

At, 56% of people happy with having a police presence, this is amongst the lowest of the communities surveyed. More striking, a third of people don’t want a police station there at all, the highest of any community surveyed. Everyone appears to have an opinion on this; nobody had no response or didn’t care either way.

What respondents think about how the police are working	Percentage
Doing a good job	11%
Not doing much	22%
Sometimes good, sometimes bad	44%
Doing a bad job	22%
No response	0%

Table 13: What respondents from Community M thought about the police presence in their community

With only 11% of respondents believing that the police are doing a good job, this is the lowest of any community by a significant margin; the proportion of those who believe the police are not doing much is relatively high. The first section makes it clear why community approval of police is so low; firstly, the failure of police to respond to crimes perceived as serious by the local community, particularly break-ins and domestic violence, even which it is reported to them by the victim; secondly, the searches of houses, and particularly bags, which are seen as inappropriate by many members of the local community. This low approval has had ramifications on the police's effectiveness in doing their job; few people now report local crimes to the police, and nobody who took part in the survey indicated that they would respond to questions asked by the police.

COMMUNITY N

It should be noted that the researcher did not visit the community but that employees of legal aid services carried out unpaid surveys on behalf of the project, and relatively low numbers participated. Caution should be taken with the results. Nevertheless, it is worth including in the survey because one of the previous OICs agreed to an interview as part of the project, and because members of a homeland community serviced by this police station were interviewed at one of the other communities.

Crime Patterns

Extent to which considered a regular problem	Problem
High	Ganja, speeding, stealing
Medium	Alcohol; kava, drink driving, vandalism, violence, traffic offences
Low	Sniffing, sexual assault

Table 14: Prevalence of problems in Community N according to respondents

Interestingly, the community appears to have a distinctive crime profile; alcohol is reported as less of a problem than elsewhere, with the most frequent crimes being regarded as speeding and stealing. In common with other communities, ganja is a major problem. In common with other communities, several people were concerned about kids running around at night. According to one of the OICs that had been stationed in the community, Community N doesn't have one of the criminality problems, issues as that a lot of the other communities have. The crime profile suggests this, with relatively minor problems seen as the most common.

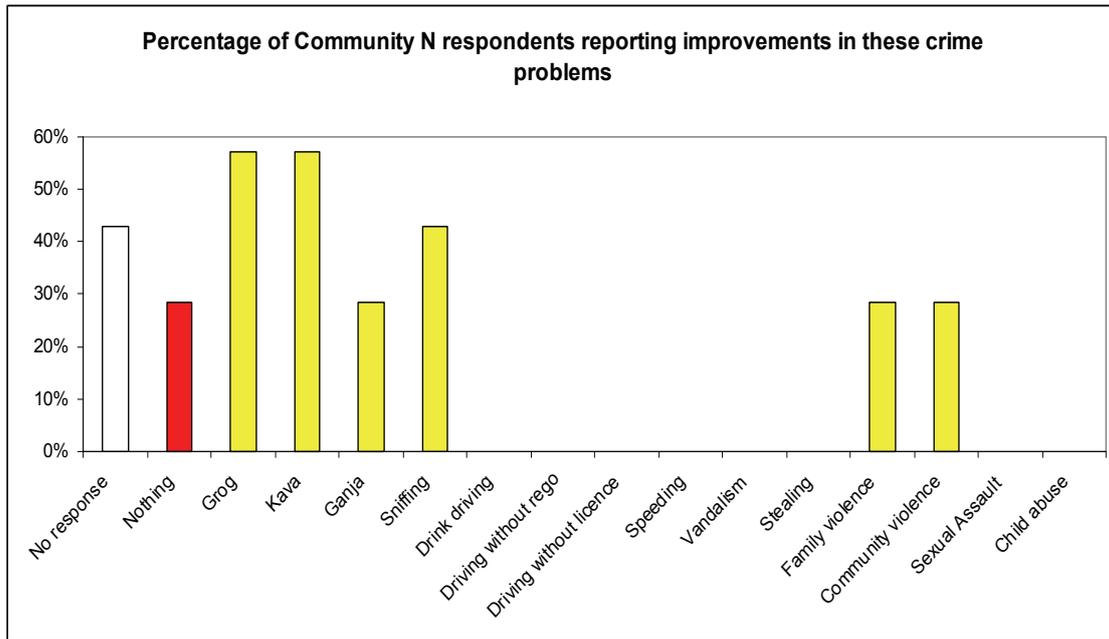


Figure 52: Percentage of Community N respondents reporting improvements in these crime problems

Perceived improvement in alcohol, kava, marijuana and sniffing are above average. Perceived improvements in other crimes was either below average or non-existent. Because the table above indicates that speeding and stealing are regular problems, whilst seeing no improvement due to the police presence, it suggests the police are active on certain problems, particularly banned substances. At the same time, the qualitative data indicates that the police are also involved in traffic matters and searching cars for banned substances. The proportion of respondents reporting that nothing had improved is almost double the average overall.

Police practices

For the OIC interviewed, his priority was community engagement and relationship building, having worked in the region for a long period prior to his deployment in community N:

I was the second ORC there, I arrived 6 months after those [first lot], there's still a lot of community engagement and relationship building with the communities. More community sided, there's a lot of community engagement, community involvement, having the community on side. Having a community getting used to police presence, understand what our role is.

Apart from community engagement, the police also concentrated on grog running, with less focus on traffic offences. Perhaps due to this emphasis on community engagement, only 14% of respondents indicated that they thought the police did not respect Aboriginal culture. Most people also identified the police were involved with kids in the community, organizing blue light discos and assisting with sport and taking kids to school.

At the same time there were complaints of the police being rough or cheeky from those who had been in trouble with the police. There were a number of responses concerning

this, for example, when asked what police do while working, one person answered; “kicking someone on the back or dragging someone while he's sleeping.” There was another account that the police; “got some people in the van, and the police bashed one of them.” Residents of one of the homelands were interviewed at another community, they mentioned that:

At [our homeland] there are two problems with the police. One is police coming into people's homes, searching the fridges and things, looking at sacred objects. Other one is police drove through a sign/road blockage that was blocked off for a funeral. We told them not to run there [in car], they should have walked through funeral area and told us.

This concern with police searching houses and seeing sacred objects was echoed by the majority of those surveyed. Perhaps as a result, there is evidence for a lack of trust of police by the community, with no participant responding would definitely answer their questions, with most people saying depends or not sure. Only one participant in the survey had reported a problem to the police, and they weren't happy with how the police dealt with it.

Community Approval

Whether respondents want police living in their community	Percentage
Happy	57%
Don't want them here	29%
Don't care	14%
Something else	0%
No response	0%

Table 15: What Community N respondents thought about having police in their community.

What respondents think about how the police are working	Percentage
Doing a good job	33%
Not doing much	42%
Sometimes good, sometimes bad	25%
Doing a bad job	0%
No response	0%

Table 16: What community N respondents thought about the way the police were working.

Again, some caution should to taken with interpreting the results because of the small number of people participating. However, the proportion of people who were happy with the police living in the community, at just over half, was far below average; conversely the proportion of people who didn't want them was amongst the highest, at 29%. According to one respondent:

The community would like to have police come here, for any big problems, from [the regional centre] police station or Darwin, and when ever the [tribal] leaders call them for any help. Let all the other

little problems leave it, with the [tribal] leaders or elders or the families to sort it out.

According to respondents, the community has a strong system of tribal leaders that deal with a lot of the problems independently of the police, this includes regular community meetings. Evidence for this also includes the police interview, who believed the community is “a stronger community in relation to self governance and those sort of the things.” In the survey, only one person reported having gone to the police for help. The OIC interviewed mentioned a couple of incidents where their help or intervention was rebuffed, that he was disappointed with. It appears that the community sees itself as less dependent on outside service providers than elsewhere, and this has filtered through into community attitudes to the police.

The largest group of responses regarding what people thought about the way police were working came from those who believed the police were ‘not doing much’; but it is important to note that nobody thought that the police were doing a bad job. All who reported unhappiness with police work or presence explained it as due to the police going into houses without permission and without the tribal leaders, and conducting searches which have involved seeing sacred objects. There was an additional issue raised to do with the difficulties of getting to court several hundred kilometers away.

**PART 3: DISCUSSION ON THE NATURE OF REMOTE
COMMUNITY POLICING IN THE NORTHERN TERRITORY**

Introduction

As far as has been able to be determined, there is almost no research on Aboriginal community policing in the Northern Territory. While a substantial body of literature exists on urban Aboriginal policing in Australia (e.g Broadhurst, 2002; Cuneen 2001a; 2001b, 2008b; Hall and Scratton, 1981; HREOC, 2001; Fenrick, 2004), as well as regional policing in Western Australia, New South Wales, and some research from South Australia (Bird, 1987, Blagg 2005; 2008; Hogg, 2005), in effect little is known about the NT experience. O'Neil and Bathgate (1993) is the only source found with an NT focus; at the same time, it involved little 'on-ground' research and none outside Darwin. This research project may be the first systematic attempt to look at the issue using qualitative data and focusing on NT policing from the Aboriginal perspective. In addition, the heavy bias towards research on urban Aboriginal experience with the police, with its theorizations regarding 'overpolicing', has meant that remote police practice in the Aboriginal domain – those communities on Aboriginal land and with a largely Aboriginal population, have been under-researched and under-theorised. As Broadhurst (2002, p259) puts it, 'Rarely have studies tried to explain differences between Aboriginals rather than difference between Aboriginals and non-Aboriginals' in their experience with the justice system.

Some care should be taken in viewing the conclusions from the research as representative across all communities; Taskforce Themis communities had a very high police officer-population ratio; as well as Australian Federal Police Officers, a special mandate to take community concerns into consideration and to focus on particular crimes (NTPFES, 2008). Furthermore, many of the most serious and repeated complaints regarding the police were from Themis community members regarding Police stations outside Themis communities. At the same time, there are a number of key conclusions that are likely to hold across remote communities in the Northern Territory and in other very remote Indigenous communities in Australia.

Summary

Concepts such as 'overpolicing' (e.g. HREOC, 2001) or 'frontier policing' (e.g. Bird, 1987), while of some use, are less relevant in the case of Taskforce Themis communities because, unlike in urban and rural areas, Aboriginal people there are not just the 'objects' or targets of policing but also the 'subjects' of policing, i.e. the community that the police 'serve and protect'. Blagg's (2008) model of what could be termed 'mystified' or 'two-worlds' policing, in which previous practice is less-effective and often conflict-producing, appears a more complete understanding of why police often appear to exhibit some overpolicing behaviours in Aboriginal communities.

However, this 'mystification' is not static state and is reduced over time by police action to build trust and learn the nature of local society and culture, as they adapt their practice to fit a changed subject (e.g. Community I). This happy outcome is not always the case, as the research identified another trajectory – that towards 'underpolicing', in which the hallmarks of police practice are unresponsiveness and inactivity (e.g. Community L). The classical 'mainstream' subject of police work is absent and police fail to adapt their practice to a new, Aboriginal subject with different structure and demands. Violent or abusive behaviour may sometimes occur within this state but other hallmarks of 'overpolicing' are absent. This 'underpolicing' model has not been fully defined in existing literature and this report seeks to better define it.

These models also lose some validity by seeing Aboriginal people as largely passive participants with little control over police practice. Within the 'Aboriginal domain' (Rowse, 1992), Aboriginal people have significant power to affect police behaviour due to their power to supply or deny information, coupled with the large area in which Aboriginal people can effectively exclude people from knowledge about events outside community centres. Aboriginal people generally have a variety of avenues to choose from in pursuing their ends of safety, justice and personal and family benefit. Aboriginal people appear to choose between these according to which avenue they believe will most effectively deliver their desired outcomes.

Police are particularly valued because they can issue drivers licences etc, because of their perceived additional power and authority, and because, as 'known outsiders' (in common with other non-local Aboriginal and non-Aboriginal people in remote communities), they can operate independently of family affiliations. However, if police fail to act on reported crimes and/or are captured by a faction within the community, people will turn to other methods of achieving their ends, which are more or less effective and acceptable to 'mainstream' Australia. In this event, with the disengagement of the 'subject' of remote community policing i.e. the local Aboriginal, the result is not 'overpolicing' but 'mutual disengagement' in which local people turn to other avenues of pursuing their community safety and justice objectives and police practices are marked by inactivity.

Because of this power that Aboriginal people have within their domain, the expansion of police powers that has occurred in the Northern Territory over the past 10 years, is likely to be ineffective, and even counter-productive, in enabling the police to act on more 'private' crimes, the most infamous example being child sexual abuse. Instead, relationship building and visible, appropriate policing is likely to be more effective.

UNDERSTANDING POLICE PRACTICE

Existing models of Aboriginal community policing

'Overpolicing' (Cuneen, 2001a; 2008b; Hall and Scratton, 1981; Hogg, 2005; HREOC 2001) is a concept originating primarily from the researched experience of Aboriginal urban and regional communities. According to this theory of police behaviour, police see Aboriginal people as the 'problem' that the non-Aboriginal population must be protected from. There is pressure on police from 'the public' to 'clean up town' by removing Aboriginal people from public spaces where their behaviour violates mainstream consensus about what is acceptable use of space, often with concern for tourists. 'Offenders are those individuals who step outside a normative political order which has widespread social and political legitimacy. Police are seen as exercising an independent authority bound by the rule of law and legitimated by popular consent' (Cuneen, 2001, p18). 'Mainstream' society is the 'subject' which police 'protect and serve'. Mainstream society, through the largely demand-driven nature of police work, determines the direction of policing and target of policing. As Blagg (2008, p28) puts it; 'Aboriginal people have never been defined as 'part of the public'. They have traditionally represented the other from which the public needs to be protected'

Overpolicing is marked by the high proportion of police to population, the use of specialist squads. Much of the workload and the resulting entry into the justice system of Aboriginal people is generated by the police themselves. The use of intrusive surveillance, such as spotlighting at night, and questioning a person not the subject of an investigation, provokes a response from Aboriginal people, such as swearing, and they are then arrested (Feerick, 2004; HREOC, 2001). As part of overpolicing, Indigenous people are more likely to be targets of police activity and prosecution for offences is more likely that for non-Indigenous people (Cuneen, 2001a). For example Aboriginal people are more regularly checked for traffic offences such as driving unlicensed, and police may be more likely to prosecute for these offences. Aboriginal people are deemed 'suspicious', noticed and approached by police more often than non-Aboriginal people. Overpolicing behaviours are legitimated by legislation targeted at Aboriginal people that defines reasonable or cultural Aboriginal practices as illegal. Accompanying these practices is a consequent polarization of Aboriginal-police relations (Cuneen, 2001a). This particular approach to Aboriginal people is underpinned by a particular police culture, developed through initial training (Imlah, 1998), and reinforced through low external socialization by police (Punch, 1993). According to Feerick (2004, p3), this police culture 'appears to dictate that Indigenous Australians are crime-prone, potentially disorderly, and consequently must be watched'. Accordingly, '[t]he level of intervention which police have had, and practised, in the lives of Indigenous Australians would not be considered permissible in relation to any other group within the community (*ibid*).

The concept of 'frontier policing', most completely defined by Bird (1987), originates from an examination of Aboriginal-police relations in rural, rather than urban, areas in South Australia and Western Australia. It takes a historical analysis and argues for an essential continuity between the current and historical interactions of police and Aboriginal people. Police work at the frontier between the mainstream and Aboriginal domains, with the use of police and the justice system as a means of controlling and attempting to mould the colonized and transform them to a mainstream ideal about proper behaviour and lifestyles. In common with overpolicing, frontier policing also defines Aboriginal people as objects of policing, and emphasises the arrest of Aboriginal people, primarily for public order offences, but it provides a deeper rationale for that type of punitive policing. Frontier policing is underpinned by a broader 'frontier culture' in rural areas, a culture in which 'a settler society that sees itself as vulnerable and threatened by 'outsiders' (*ibid*, 273).

The conflict arising from cultural and socio-economic differences between two groups located in different places, leads to the powerful criminalising the less powerful and 'acts of 'primitive' rebellion by the less powerful.' (*ibid*, p274). This conflict is associated with continuing struggles over ownership of land, or at least, who determines what activities are carried out on them. Policing in this context is a way of managing the ongoing encounter with Aboriginal people to try and obtain their quiescence (Broadhurst, 2002). In this context, Waquant's (2001) observations regarding the ghetto system in the US appear particularly congruent. He argues that the ghetto (by extension in the Australian case, the town camps and Aboriginal reserves) has become more like a prison, used to control a minority population that has been made marginal by capitalism (Baumann, 2004).

The third model of policing which may have insight in this context is that of 'community policing' (e.g. O'Neil and Bathgate, 1993; Smith and Natalier, 2005; Seagrave and Ratcliffe, 2004) Community policing is a mainstream concept that emerged in the 1960s in the USA (Smith and Natalier, 2005). Within this practice, local police look to the

community for direction and accountability rather than to policing hierarchies; accompanying this is increased accountability of the police to the local community. Police have a high visibility in the community through regular foot or cycle patrol and have regular contact with members of the community outside the exercise of their powers under the justice system. There is increased information flow between the community, community organisations and the police. The police support community initiatives to reduce crime, such as Neighbourhood Watch.

The role of the police in this context is a mix of mediation, adjudication and enforcement (O'Neil and Bathgate, 1993). Alternative methods of justice are involved, including the use of alternative punishments. Police choose the most appropriate way of dealing with a problem, and includes elements of welfare and community service with law enforcement. Key to effective work in this area is an ability to communicate across a range of situations and people. Police have a wider variety of duties under this model and it requires additional, non-traditional skills. This model emphasizes the importance of crime prevention and the impact of police work is measured beyond crime rates and prosecution rates. The term 'community policing' is often used in the Northern Territory with respect to Aboriginal people and can just be limited to the reference that police are situated in what are generally known as communities.

There is another model, 'underpolicing' (Cuneen, 2001; HREOC, 2001; Memmot et al 2001), which is discussed in the context of Aboriginal domestic violence in particular. In 'underpolicing', police fail to respond to reports of domestic violence by women, because they believe it is part of Aboriginal culture, and/or because they do not see themselves as having the responsibility to serve that portion of the population. This model has not been completely theorized but it is linked to overpolicing. We can thus draw a table outlining the key features of each of the four existing models of Aboriginal policing to examine if they fit the experience of Aboriginal people under Taskforce Themis and the NTER.

Policing model	Police practices	Police focus	Community relations
Overpolicing	Intrusive surveillance; incitement to offences; use of special powers	Public order, petty crime; traffic offences	Oppressor-oppressed. Mainstream and Aboriginal populations live relatively close. High police-Aboriginal population ratio
Frontier policing	Heavy-handed; intrusive; use of special powers	Public order; Aboriginal containment	Coloniser-colonised; Mainstream and Aboriginal populations separate
Community policing	Dispute resolution and mediation; community service	Community relationship building	Mutual respect and trust; high levels of dialogue

Table 17: A summary of the existing models of Aboriginal policing

At the risk of reducing the models to only three factors, this table provides an overview of the models discussed. Clearly, overpolicing and frontier policing are similar in their visible expression in police practice; the difference appears to be the rationale for the particular police practice, and also perhaps a greater focus in the latter on ensuring that the Indigenous population stays quiet, passive and does not threaten non-Aboriginal interests. There are other models of police practice that have not been related in the literature to Aboriginal people e.g. active policing, problem-oriented policing. These models are not deduced from police practice and are more technical and police-centric in seeking to define more effective police practice. These models are not discussed here.

Key Concepts

From the research, it appears that most police stations have been involved with policing primarily alcohol, public order offences, like drunk and disorderly, and, in some places, traffic offences. Police appear to have been less active and less successful on 'private' crime, for example stealing and private assaults, for example domestic violence and sexual assault. This focus on public order offences bears some resemblance to the crimes focused on in the classic model of Aboriginal policing - overpolicing. However, we have also seen police behaviours at odds with the model, for example, the widespread use of cautions and community solutions to problems as alternatives to prosecutions and the engagement in many places with elders. Likewise, the 'mutual disengagement' phenomenon that appeared in the research has not been explained in the literature. Lastly, and importantly, we also noticed the divergent experiences of communities with the police, both between communities and over time within a community, which suggest that a single, static model is inadequate to explain police behaviour in remote Aboriginal communities in the NT.

Comparing the community case studies in Part 3 with table 17 above it is clear that different communities appear to be more like different models; that communities share characteristics across a number of models; there are dynamic changes over time in police practices which appear to involve a shift from being more like one model to more like another. It is also apparent that there is limited congruence with the conventional overpolicing model in Aboriginal communities in the NT. A number of communities have high approval ratings of the police and people believe that police are generally acting in an appropriate way. It appears that an absence of police activity and responsiveness is a recurring phenomenon. From the research, this report argues that the keys to the explanation of police practices in the NT, as well as Aboriginal engagement with the police, are three things: the importance of *police culture*; the *subject-object duality* in policing; and the concept of the *Aboriginal domain*. Before seeking an explanation of police practice it may be useful to define these.

The first key concept is that of 'police culture', with distinct norms, values and practices. According to Smith and Natalier (2002, p88):

Studies from around the world are remarkably consistent in their findings of just what these [norms and values] are. They suggest that there are strong ties between the characteristics of the job and the ways that this is translated into individual personalities, collective beliefs and routine activities.

According to Chan (1997), these norms and values are: a sense of mission about police work, an orientation towards action, a pessimistic perspective regarding the social environment, an attitude of constant suspicion, an isolated social life and a strong sense of solidarity towards other police officers, racial and gender prejudice and a clear categorization of the public between the 'rough and the respectable'. This strong group identity and strong, shared values is developed during the initial training (Imlah, 1993) and continues as police continue to socialize largely with themselves through their career (Smith and Natalier, 2002).

The 'subject-object duality' refers to the difference between the subjects and objects of police work, that is there is one group of people that police 'serve and protect' and another that are the targets of police work. The objects are the targets of policing, the 'criminal element', disrupting public order and committing offences. It is the group, if you like, that respectable society must be protected from. These two separate groups live in different places, do different things, look different and talk differently. As mentioned, discussions of police culture stress this division of society into two groups (if you like 'the good guys' and 'the bad guys') as a key element of this culture. However, this duality is not fully explained by reference to police culture. 'Mainstream', majority society, with its strength in numbers and control of the civic space through politics, government and business, seeks to impose its values on all social space and 'seek to manage it in accord with their own established rural values and conceptions of community' (Hogg, 2005, p8). Mainstream society themselves see the police as 'servers' and 'protectors' and actively engage police to deal with what they see as deviant behaviour, either through direct contact or through their political power, which determines police practice through law. This view of police is taken for granted and embedded in mainstream culture. Police activity is largely 'demand-led', that is, driven by requests and demands from this (self) identified subject group to act against a certain target (the object of police work) to dissuade non-mainstream behaviour and impose mainstream norms. In this way these demands act to reinforce the values of police culture.

Accompanying this, the marginalization of non-mainstream groups is reinforced by this police practice; these people are unable to determine the direction of policing because of their minority status and their marginal impact on the political process. They do not see the police as natural allies and are less likely to request and sanction police action. Police have much higher contact with them as targets of policing than those in the mainstream, and offences within this group are disproportionately detected, leading to their over-representation in the justice system and strengthening police views that they are disproportionately to blame for crime – the proverbial 'bad guys' (Chan, 1997; Punch 1993; Smith and Natalier, 2005). In this way, the subject-object duality operates as a kind of self-reinforcing spiral in which police culture and practice is both reinforced and determined by the groups that use the police, and at the same time in turn reinforces and determines this division of society into the subjects and objects of policing. In overpolicing and frontier policing, the subject is clearly Whites, or at least people who conform to the dominant culture, versus Aboriginal people who are the objects and targets of policing in urban areas, or areas where there exists a significant non-Aboriginal community that can act as a subject (Bird, 1987; Blagg, 2008; Cuneen 2001a, 2008b, Hogg, 2005).

The third key concept, that of the 'Aboriginal domain' is drawn upon by Blagg (2008) and underpins his two-worlds' theory of policing; the position of a person within it is as described by Phillpot (2001) and Downing (2002). The 'Aboriginal domain' is most clearly articulated by Rowse (1992); it refers to that part of Australia where Indigenous

people make up the majority, usually the vast majority of inhabitants. Aboriginal social organization is the dominant social organization, and Aboriginal law coexists with Australian law. Aboriginal people maintain at least partial autonomy of organization in this area. In the Northern Territory, this happens through Aboriginal institutions of the Land Councils and Shire Councils, predominantly or only made up of Aboriginal people. Northern Territory and Commonwealth institutions, however, still maintain significant influence over outcomes in the Aboriginal domain, through their provision of services like health and education and through the control and distribution of incomes either through jobs or welfare payments. Whilst these organisations' priorities may be determined outside the domain, at the same time Aboriginal people have considerable power to determine how these institutions operate inside the domain. Because of the mystification that a (in particular) non-Aboriginal person experiences on being immersed in the domain, behaviours and outcomes are unpredictable, often unexplainable and unexpected. Although the 'Aboriginal domain' concept is essentially socio-economic in nature, analysis of Aboriginal responses to the police have to take into account drivers outside of police behaviour. As Langton (1992, p. n/a) puts it, 'cultural and social imperatives shape Aboriginal and police relationships as much as do the impact of history and the legacy of racism and inequity which Aboriginal people endure.'

Mystification – the development of Blagg's model

Blagg (2008) attempts a more sociological analysis of Aboriginal policing, based on his work in Western Australia including in remote communities. Although he does not name his model, this report uses the terms 'two-worlds' or 'mystified' policing; drawing from models of both Aboriginal and non-Aboriginal understanding and behaviour in the overlapping place between Aboriginal and mainstream culture and society (e.g. Downing, 2002; Phillipot, 2001). In this model, the individual is at the edge of the intersection between their own and the other culture/society. They look backwards into their own society, which they perceive clearly, but the other culture, into which they are penetrating is unclear.

This location at the intersection of two domains, what Blagg (2008), drawing on Walters (2001) labels as 'interstitial' or 'hybrid' space, which he defines as 'an unpredictable space where the authority of existing customary practice is reduced, creating a deliberate zone of ambiguity and uncertainty...in which 'the taken-for-granted rules and structures of everyday life dissolve and need to be renegotiated' (Blagg, 2008, p.51). In essence, police practices within this space, which includes the Aboriginal domain of Aboriginal communities, are created differently as a response to uncertainty; the distinctive police practices regarding Aboriginal people is a response. The uncertainty of occupying this space is the key feature of practices (work) within the hybrid zone. Within this hybrid zone, what is known colloquially as 'the law of unintended consequences' applies. Standard practices and policies developed in the mainstream are likely to have unintended consequences, often conflict or simply little or no result.

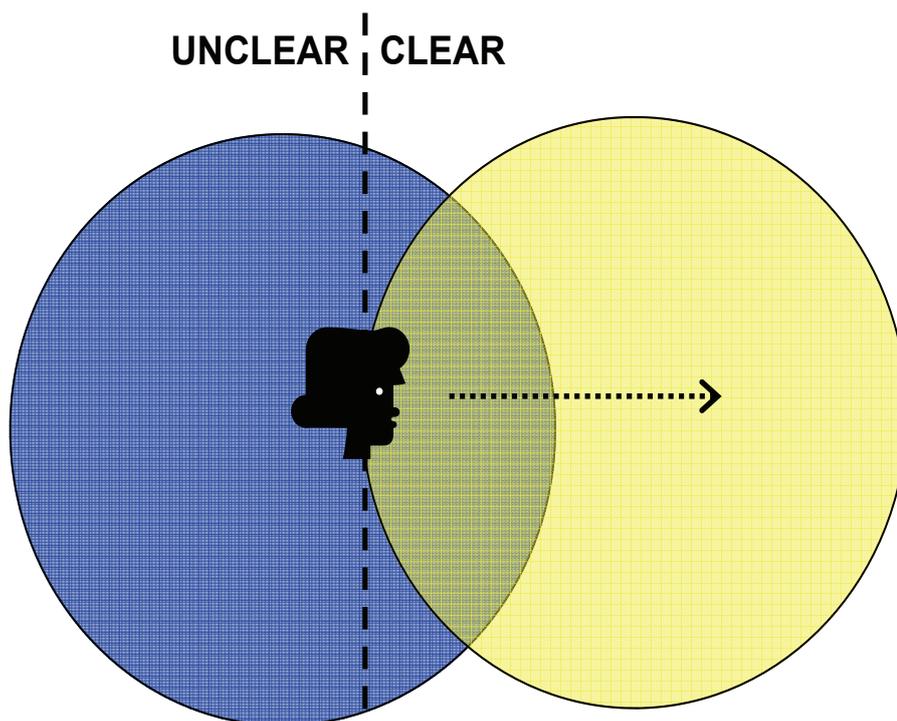


Figure 53: A model of contradiction and confusion in the 'two worlds', adapted from Downing (2002), and Philpot (2001).

Police have a large number of assumptions of what consists of effective policing, based on training primarily developed for the mainstream and aimed at the mainstream as the subjects of policing. This may be effective in a mainstream context, but in the Aboriginal domain continuing to act in the same manner in a different context leads to what is colloquially known as 'the law of unintended consequences' in Aboriginal affairs – a policy, belief, or a course of action is likely to have consequences other than those planned, or at least other consequences than if the act was performed in a mainstream context. As in a number of communities, for example Community G, and in accordance with Galtung's model, discussed below, these consequences can mean conflict. But they can also, the research shows lead elsewhere – to little or nothing, or at least, failure to perform in accordance with set objectives.

Galtung's (1997, p72) ABC model (figure 54 below) of conflict seeks to explain behaviours visible at the 'manifest level' through reference to the 'latent level' i.e. that of theory. Conflict behaviours are produced when a person or experience contradicts the assumptions or attitudes of an individual. Galtung's model is very broad. We can develop it based on this 'two worlds' concept, in which an assumption or attitude carried over from the mainstream domain encounters a contradiction within the Aboriginal domain. A behaviour is then manifest; the research shows that this behaviour can be conflict between the police and the community, for example, over police shooting a pet dog. It can also be the absence of a result; traffic offences are enforced but because they are 'overdetermined', Aboriginal people continue to offend. Increasing effectiveness in police is therefore about reducing the distance between the assumption and the contradiction, through a process of learning about the society that they are immersed in.

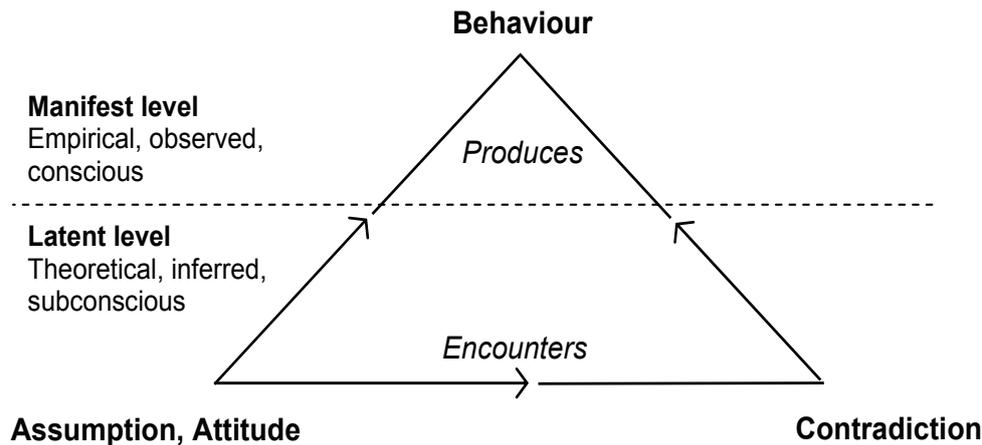


Figure 54: The conflict triangle, adapted from Galtung (1997)

Redefining appropriate policing

The research has not examined that nature of policing with respect to Aboriginal people in urban areas in the NT; further research is needed in this area. In the existing literature on Aboriginal policing, it is generally accepted that 'overpolicing' is the dominant behaviour, based on a distinct police culture and pressure from a large, mainstream, non-Aboriginal 'subject' for which Aboriginal behaviour in urban areas is likely to deviate from established values.³² Some evidence emerged that this was the case in the NT, however, the research must take the existing literature at face value and accept that overpolicing is the dominant mode of police practice in urban areas with respect to Aboriginal people.

Police recently arrived in an Aboriginal community are therefore likely to bring with them a pre-existing police culture and unthinking behaviour pattern (overpolicing) that continues overpolicing practices, particularly seeing Aboriginal as the objects of policing; that involves the criminalization of large numbers of people for behaviours constructed by the dominant culture as illegal, including minor crimes, and a focus on public order offences. This is clearly the behaviour of a number of police officers in Taskforce Themis, particularly those from interstate and from overseas. It explains observations by participants like this one:

One new policeman was very keen, pulling people over for seatbelts. The community went and talked to the OIC and he had a word with him. The OIC has community experience, he knows how to work with Aboriginals. He told him to pull his head in.

Here we can clearly see the difference between those with a history of working in the Aboriginal domain, and those without it, as perceived by respondents to the survey. For many police officers, as they spend time working in the Aboriginal domain there appears to be a clear change in police practice, with more experienced police more willing to use their discretionary power and involve community members in the direction of police

³² Perhaps in the NT it may also be fair to suggest that it deviates from Aboriginal values as well; the uncovered behaviours of binge-drinking, abandoning family and other non-normal behaviours by certain Aboriginal people during these short-term trips to urban areas are also perhaps at odds with accepted majority Aboriginal values and directly encouraged by the present alcohol regime in the NT, as discussed in Part 4.

practice, rather than putting people through the Australian justice system. Accompanying these practices is an increased willingness and (importantly) ability to engage with people, particularly senior people in the community, leading to increased trust, and an increased ability to for police to act on more private crimes. It is not the case that no police changed and adapted their practices to work more appropriately. As Langton (21992, pn/a) points out, 'Thoughtful, experienced police are as anxious to find solutions as Aboriginal people.'

This learned ability to work effectively within the Aboriginal domain may be termed 'appropriate policing' – appropriate to the space the police inhabit. As was discussed on page 42, this 'appropriateness' is not limited to cultural awareness but includes an understanding of all aspects of current remote Aboriginal life and society. From the research, we find a lot of the aspects of community policing, as defined above, fit both the police practice that Aboriginal people demand and the practices of police that had high levels of community approval in the research. Seagrave and Ratcliffe (2004) emphasis that (in a mainstream context) this change in police practice is often difficult for officers to undertake, as police give up certain responsibilities and hand a level of control over their practice to other agencies or community groups. Bayley (1999, p4) stresses the acquisition of knowledge necessary to undertake this change, arguing that police must 'develop the institutional capacity to understand what is going on in their environment as well as the impact of their own strategies, and to use this knowledge to provide a higher measure of safety and reassurance to the public'.

There's really two elements at work here in this change in practice to 'appropriate policing'. The first is to do with the *subject-object duality*; in the absence of a substantial white community to be protected from Aboriginal people, in the Aboriginal domain, Aboriginal people become both the subjects and objects of policing³³. If police is essentially demand driven, then those creating the demands and determining the direction of policing are themselves Aboriginal rather than non-Aboriginal. As Langton (1992) points out,

The Aboriginal experience of police in smaller communities and remote areas is somewhat different from that in the towns. In small remote communities police experience the situation of being outnumbered by Aboriginal people and surrounded by Aboriginal culture and lifestyle.

Because the subject is no longer the 'mainstream' with accompanying mainstream norms and values, those demands are also distinct and different from mainstream demands. Aboriginal concerns, raised in the course of the survey, about the failure of the criminal justice system to resolve problems rather than create new ones, and (for example) about how people should be allowed to drive unregistered cars, become taken on by police and incorporated into policing. Some aspects of the discriminatory characteristics of overpolicing may still exist. As shown by the survey, Aboriginal people, rather than white people, are still targeted – complaints about how only Aboriginal people are searched for alcohol, for example, were common throughout the survey. At the same time, because Aboriginal people have become the main subjects of policing,

³³ It may be that the duality is just redefined as between old and young, or between men and women e.g. 'Look after old lady mob good. Call them up and taken them in straight away... when men get noisy they chase them straight away'

Aboriginal concerns are incorporated into police work; police practice accordingly changes.

There is a discussion of why these practices change in more detail on pages 152, however, it is worth mentioning here what these changes are. In order to more effectively regulate social order, the police seek more consensual strategies involving the community (Broadhurst, 2002). Community ownership of this regulation is necessary in order for community members to be co-opted into this. Relationship building to engender trust is a key aspect of community policing and appropriate policing, increasing information flow and increasing use of the police. The police become more involved in the life of the community, including participation in the social space. Cultural knowledge and accompanying culturally-appropriate policing is necessary to build that trust and to inform police in order for them to work effectively in the Aboriginal domain. Conventional strategies of investigation are less useful. As Deahuntey and Putt (2006, p n/a) put it: 'Police officers are highly visible. Even sophisticated police attempts to infiltrate drug networks, cultivate informants or conduct surveillance can be easy to identify.' Also due to this visibility, police have to take care that all their behaviour and interactions with people in the community are positive. Offenders are related or known by law-abiding people, and how offenders are treated will in turn affect how the police are seen by those who may make reports to the police.

The attentive commander can easily determine whether his officer stands well in the public eye. If the officer does not, his effectiveness is curtailed. People will not provide the information necessary for anticipating trouble, resolving order problems, and solving crimes. Community support in a country town is not an abstract matter. If push comes to shove in the life of a country cop, backup is usually a long way away. (Bayley, 1986, p29)

As many people explained it in the report, the behaviour of the police is very visible; if, for example, as was reported in the research, the police officer drinks and then performs his duties whilst intoxicated, this will quickly spread around the community. As the police officers' value to the community and their effectiveness rises, their own morale and sense of worth is likely to rise in an accompanying manner (Bayley, 1986). In an era in which motivation and retention of staff is increasingly important, this point is also worth noting. Also as part of this process, the police increasingly use alternative means of problem resolution, including referring minor offenders to local, informal or traditional dispute resolution mechanisms. Warnings are often used. Police priorities are informed by community values and perceptions.

At the same time as the subject determining the target and actions of police work changes to become Aboriginal people, living in an Aboriginal community also has an impact on police culture; or rather that police will have difficulties in maintaining a distinct police cultures in small stations in remote areas. With only two or three police officers for hundreds of kilometers, police, if they want social interaction, cannot exclusively associate with themselves for long peoples. They become absorbed into the general white service provider community that exists in all Aboriginal communities; their worldview is influenced by these service providers. The culture of these service-providers is perhaps documented most completely in Lea (2008) which looks at the example of health professionals and bureaucrats. This worldview is one in which non-Aboriginal people see themselves as providers of essential services to Aboriginal people, (though including frustrations of working in their field in an Aboriginal context)

whose work also has significant elements of contradiction and mystification in common with the police. This service mentality is actively encouraged by Aboriginal people as they seek to maintain control over their domain, as discussed below. Hallmarks of the service provider mentality in the research were a police focus on issuing drivers licences and gun licences, and taking direction from community elders. This transition is most likely to occur in low-crime communities where police are active in the community.

Developing a theory of underpolicing

Using these two concepts – police culture and the subject-object dualism in policing allows us to explain changes in police behaviour over time from ‘overpolicing’ to culturally appropriate policing patterns, or as we might otherwise term it community policing in an Aboriginal context. However, this positive outcome was not always the case in the research. The research identified a number of case study communities in which police practice was apparently largely confined to staying in the station, seeing it as a ‘holiday’ as some respondents commented; police inaction meant a failure to respond to reports of crime, a failure to assist the community in dealing with local problems and a failure to engage with the community, whether it was with elders, children, or just getting to know people in the community. This was, at least partly due to a phenomenon that emerged called ‘mutual disengagement’. These case studies appear to have something in common with what the literature terms ‘underpolicing’, though this concept is not examined fully in the existing literature. In the research, there was often a particular incident or conflict that occurred prior to this mutual disengagement, as explained by Galtung’s conflict triangle discussed above.

This underpolicing phenomena could be seen as due to ‘the absent subject’ in police work. As police fail to adjust to Aboriginal people being both the subjects and objects of police work, the absence of the traditional white, mainstream subject of policing means that, in the context of demand driven policing by certain traditional groups, the demand falls away and the police become inactive. In this case it may be that the internalized police culture of certain individuals is unable to move beyond assumptions fixed in the academy and the cities. From the research it was clear that Aboriginal people took a ‘wait and see’ policy of whether to engage with a police officer (in common with other non-Aboriginal government agency employees) based on his or her behaviour around the community; if the police failed to engage the community did not engage either. It might also be the case that the police officer is unable to overcome the differences in practices associated with the community that he is she is charged with serving; that the police officer cannot overcome the changed subject with distinctive and different demands not because of an internalized police culture but because the police officer lacks the skills to make that transition.

From the research, it also appears that violence can be a part of underpolicing; that people may fail to respond to reports from local Aboriginal people, but also act in a violent or abusive way towards people, as discussed by people in Community D with reference to police in a neighbouring community. Violent or abusive behaviour appears to not just be confined to overpolicing but paradoxically can also be involved in underpolicing as well; this was not the case in all places. However in some people identified that some police ‘have got a chip on [their] shoulder.’ As communities disengage with the police, turning to other means of dispute resolution, police are increasingly unable to achieve their own objectives. As Schwartz, 2007, p10 points out:

Without the cooperation of communities, investigation and enforcement will be extremely difficult. In addition, taking an intimidating, paternalistic approach is certain to provoke hostility and obstruct full cooperation and participation from communities who sense a further loss of control over their own affairs.... This will begin to create the conditions necessary to encourage a culture of reporting child abuse as opposed to staying silent.

It is interesting in this context to compare the findings of the research with the recent independent *2009 Structural Review of the Northern Territory Department of Education and Training* (Ladwig and Sara, 2009). This review recommended an increased focus on quality in the NT DET. While some aspects of the review are less relevant, the review highlights an organizational culture which accepts mediocre standards, particularly in the Indigenous area, finding a prevailing attitude of 'it's all too hard' and a refusal to take responsibility for failure (p25). This research on policing in Aboriginal communities was largely from an external perspective – that is, it did not examine internal beliefs and culture in detail. Underpolicing may be occurring because of racist beliefs or practices by the police officer. Underpolicing may also be for more prosaic reasons - research on other government service providers in the Aboriginal domain suggests that there is a culture of accepted underperformance and externalization of responsibility for underperformance (Ladwig and Sara, Lea 2008). Accompanying this is likely to be a fall in morale and self worth.

Creating a dynamic model of police practice in the 'Aboriginal domain'

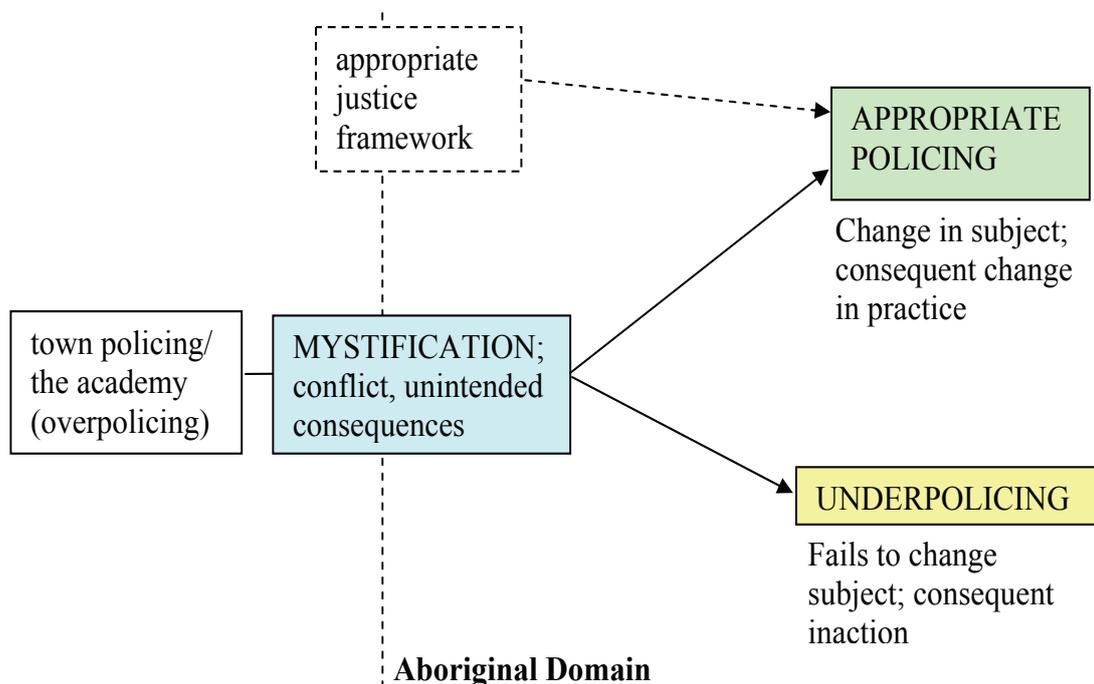


Figure 56: A dynamic model of policing in the Aboriginal domain

From these conclusions, we can generate a dynamic model of police practice, as it operates at the level of the organisation, the station and the individual level. Overpolicing practices are inherited from the urban experience, due to the subject-object duality and a

numerous mainstream subject. Police entry into the Aboriginal domain is marked by mystification, that is, a lack of understanding of this domain. Accompanying this lack of understanding is the possibility of conflict. Over time, there is a progression towards two modes of policing. One is appropriate policing, in which police make the successful transition to an Aboriginal subject, and successfully modify their practices to take account the characteristics of the Aboriginal domain. This includes obtaining knowledge about the domain, and is accompanied by relationship building. Many of the characteristics of appropriate policing are those of mainstream community policing. The second mode of policing in the Aboriginal domain is underpolicing. Police fail to adapt to a non-mainstream subject and the practice is marked by inactivity and unresponsiveness. Abusive behaviour may or not be part of this practice. The capacity for this divergence is due to the particular nature of remote policing which can receive little scrutiny, either externally or from superiors. As Punch (1993, p184) puts it; 'The essence of police work is solitary patrolling, with high level of discretion and decision-making behaviour that is not reviewable.'

Conflict is a consequence of mystification. It does not necessarily lead to underpolicing. An ability to change practice and subject is likely to determine which path police move over time. This is evidenced in the research by the result that conflict did not necessarily alienate the whole community but unresponsiveness did. In order to influence which direction the police move in, police need to be equipped so that they are able to effect a transition in subject and a transition in practice to carry out appropriate policing. The ingredients for this are; training to reduce the gap between inherited beliefs and reality; an openness to change in subject and practices; and community engagement and direction into police practices. To some extent, this openness to change is likely to be a part of a person's personality, as is the ability to value and accept non-mainstream Aboriginal people as valid subjects of police practice. It also suggests a renewed emphasis on knowledge acquisition, both through training and on-going learning from local community members, as one person put it: "Why don't police stay longer and mix with the community? City police will never understand the blackfella way if they don't get to know the community". Knowledge about the Aboriginal domain is not limited to understanding what it is to be 'culturally appropriate', and that concept needs to be re-examined to ensure that it includes all aspects of what Aboriginal people consider to be 'appropriate' as discussed in the research.

In this context, given that appropriate policing is not simply something police do but something police move towards, the importance of tenure should also be considered. As one person pointed out;

The biggest thing is that the police don't have permanent tenure. Police need to build up trust and support in the community. They don't stay long enough to really get known. I suggest a two year tenure. They should be mingling with the mob they have to deal with.

The importance of police getting to know the community, and vice-versa, came up in every community in which the OIC had not made a long term commitment to the community in the research. This is particularly important, given that there is currently little training given to police for work in the Aboriginal domain. With time, the community and learning from experience can provide a form of training. In this context, the openness and willingness to change aspect of a police personality is important. By contrast, for those who appear to be on the track towards underpolicing, it may be advisable for early intervention to move them from that community, perhaps into a

setting in which conventional police practice will yield results. If the police officer's behaviour is not due to conservatism and an unwillingness to accept Aboriginal people as police subjects, then conflict needs to be reassessed. Conflict is likely as a by-product of mystification; and conflict is likely to be part of the transition to appropriate policing as well as underpolicing. In this context, a willingness by police to demonstrate to the community that they have learnt from that situation, and that they are continuing to learn, may be sufficient.

It is also vital that we also note that good outcomes cannot occur unless police are operating in a justice framework that is also appropriate. That is, unless the justice system and the socio-economic drivers of Aboriginal behaviour act to reduce criminal behaviour and criminalization of Aboriginal people, the police cannot deliver good outcomes. Hence the prevalence of continued problems in communities even with appropriate police behaviour in the circumstances (behaviour that may even leave police liable, for example, allowing people to drive unregistered cars home from areas in which it would be unsafe for them to abandon their vehicle). Traffic offences and alcohol are the standout examples of this. Appropriate police practice is not sufficient to deliver effective justice outcomes, and the police may be conflicted between being appropriate and admitting people into the justice system. Another example of this is the perceived failure of the prison system to provide a deterrent for criminal behaviour (see page 166).

UNDERSTANDING ABORIGINAL ENGAGEMENT WITH POLICE

Why Aboriginal people value the police

The Indigenous Aboriginal legal system is 'a fact of life for most Aboriginal people in the Northern Territory' (RCIACL, 2004, p13). Comprising a complete legal system including a coherent body of law and also including structures closely analogous to police, judges and a punishment system. People in the survey emphasized the value of the system, and superior aspects of it (see pages [xxx]), particularly to do with dispute resolution and offender rehabilitation. Never the less, the police presence appeared to be valued and wanted by three quarters of respondents. Clearly, participants in the research did value the police despite the continued existence of this prior legal system.

From the research, it emerged that Aboriginal people in these communities valued the presence of the police for three reasons: Firstly, for assisting in complying with Australian laws, for example, by issuing gun licences. As shown in the research and discussed above, even low crime communities were happy with the police presence, provided they worked in an appropriate way, because of this convenience. Secondly, because police had an additional authority that local people involved in community safety and justice issues perceived that they lacked, for example:

We work at the safehouse, if there is domestic violence, we try and tell them to come with us to cool down. But they tell us to go away because they don't respect us. If the police get them, it's better

There is an additional level of respect or fear of the police that local people often can't muster by themselves as they seek to intervene to promote law and safety. As one person points out: "People everywhere are frightened of the police, you see police,

anyone will get up.” Most communities reported that alcohol and related problems had decreased in their community, despite nearly all being dry, and already subject to the NT Liquor Act, prior to the NTER. Although Aboriginal societies have justice mechanisms that are, to varying degrees, still in existence, the operation of these justice mechanisms has been undermined by those that previously controlled them no longer controlling the means of survival (Rowse, 1992) People in the research blamed two things for this: how Commonwealth and Territory government policy has undermined traditional social structure and the operation of the justice system, by failing to recognize it, and by criminalizing aspects of the operation of Indigenous justice mechanisms. They also blamed the poor values of non-Aboriginal culture, the impacts of types of music and films that promoted bad morals and irresponsible behaviour. As one elderly lady put it:

White men been taking away all the rules for us. Making new rules for us from the start. Not only that but DVD and the rap music, they always look all the time, make them mad, they [young people] love themselves, they're getting crazy. In my time now [non-Aboriginal] music.

It also may be that demographics plays a part in the undermining of traditional authority. Page 31 shows the demographic profile of Aboriginal communities; strongly pyramid-shaped because of high birth rates and unhealthy living that has led to the early death of senior people. Young people now far outnumber senior people, in contrast to a pre-colonial, relatively static population. Sheer weight of numbers may in many places have tipped the balance of power towards younger people. With the Indigenous justice system no longer functioning properly in many places due to government policy, economics in communities, demographics and the impacts of non-Aboriginal cultural output, Formal structures of Indigenous authority no longer have the same power to regulate existence in the Aboriginal domain. In this context, the perceived power and authority of the police that derives from their special powers in law and the backing of the judicial system is seen as attractive by those who want peaceful and ordered communities.

Thirdly, police are valued as being in their role, along with other non-Aboriginal or non-local Aboriginals, a 'known outsider'. This is a concept that is not discussed, so far as can be ascertained, in the existing literature on policing or more broadly work in the Aboriginal domain. This concept emerged from discussions on the subject with both participants in the research and Aboriginal people who were involved as researchers in the project. The 'known outsider' is someone Aboriginal or non-Aboriginal³⁴, with whom community members are familiar with and have a certain amount of trust of, but who is not part of, or closely allied with, a particular faction, tribe or family group. Aboriginal people recognize and value that impartiality. Having outsiders run services to the whole community was seen as positive for locals to avoid those services being caught up in disputes and being run only for the benefit of a particular group (see the discussion below on 'factional capture'). It is part of the reason why there are few Aboriginal people in management, or 'enforcing the rules' – it is often a role 'not sought or relished' by Aboriginal people (Rowse, 1992, p30), because they find it hard to perform the role

³⁴ In practice usually non-Aboriginal because staff housing is generally reserved for 'white' positions within organisations; for example, Aboriginal health workers are not provided with houses in communities but nurses coming from outside the community are. At the same time, Aboriginal people from other areas who had moved to the communities surveyed often took key local positions, e.g. chairman, CDEP coordinator, for whom an ability to be impartial was beneficial. These people were in turn endorsed in this role by local community members who recognized the value of that impartiality.

impartially. Night patrols in the communities surveyed, for example, sometimes had this problem; for example, only giving lifts to one faction. Apart from an ability to act impartially, the known outsider is someone with whom a person can talk in confidence, not knowing everything about that person, but at the same time not likely to pass on personal information to others in the community. The 'known outsider' is valuable in all community services, but is particularly valuable in the context of the police, who are an 'outside authority' as O'Neil and Bathgate (1996) put it, and can intervene in factional disputes where Aboriginal people cannot.

Factional Capture

Because of the value to Aboriginal people of this 'known outsider' status, where police allow themselves to be seen as partial or biased, they compromised this status. The majority of police did appear to be seen as such; 64%, or around two thirds, of people saw the police as fair (with no response removed). Where police were seen to be one-sided, this was limited to a small number of communities. For example, people said that, "Police only listen to some people, they take sides in the community". Another example is:

One time she tried to make a statement but the police said she couldn't, because they were only listening to TOs. The person who had punched her was TOs. She's sick, single, with kidney problems.

Strong personalities and influential groups may dominate discussions of police priorities and control the direction of police practice. This is a particularly important issue when there is great variety in the problems identified by different community members. 'There is a concern that while community policing presents itself as an initiative for the whole community it ultimately serve the interests of a vocal minority' (Seagrave and Ratcliffe, 2004, p n/a). Langton (1992) discusses people's reaction to perceived one-sided behaviour by police. It should be noted that, in some cases, a particular group may be actively working to achieve that factional capture. This is discussed in Rowse (1992) and was also mentioned by participants in the research: "On communities it's all about which family group is on top of the other one. That's what makes things hard for the police. These mob can't go anywhere." For Rowse, there is 'no clear impersonal common good, rather individual good, which means people have obligation to particular individuals' (*ibid*, p27; see also Kimm, 2002). Police can be used by protagonists on one side of a dispute against the other family or faction in the dispute (Langton, 1992). Individuals or families may affect factional capture in order to shelter themselves from becoming targets of policing, or in order to achieve increased marginalization of their rival faction, for example, by incriminating them.

Whilst local people may actively pursue this factional capture (in which the police are unwitting targets of this behaviour), it can also be something police pursue in order to perform their job. In trying to increase the information flow to the police, police can come to rely on particular individuals who either have the necessary language skills to translate for the police, or who become providers of inside knowledge to the police. Police may have to accept a degree of factional capture in order to do their job, for example in trying to investigate a crime, or in carrying out their obligations with regards to translation (the *Anunga guidelines*, also Police's *General Order Q2*). One Aboriginal participant in the research summed it up in this way:

The lower class people – the police don't listen to their side of the story, because they can't speak English or are shy. They are

marginalized in the community. The powerful family groups use the police in their family fights. The police learn to trust certain families because they speak English well and they are the informers for the police, cooperating with them and telling them what's going on. Police don't listen to them [lower class people]. And they can't get to [the regional town] to report it to other police.

Factional capture may also be a result of the active practice of the police as they divide the community into those who are subjects and those who are objects/targets of police action. This is due to the subject-object duality, discussed above, which is embedded in police culture; that is, the division of a society into good and bad. In some ways, this may be, to a certain extent, justified; Rowse (1992) discusses the existence of a kind of 'boss' in the community whose power comes not from his ability to control access to ceremony and ritual, but from the ability to control the flow of resources including drugs and alcohol (the *Little Children Are Sacred* report also touches on this). At the same time, the police may also be targeting those identified by one family as 'bad', and so unwittingly become a tool in the ongoing family disputes and often identifying people with less English, less education and less control over resources, and therefore more marginalized in the community, as the 'bad ones'.

Perhaps the greatest possibility for 'factional capture' is with the presence of an Aboriginal Community Police Officer (ACPO). They have de facto insider status by virtue of their work within the police force. However, there was only one community in the research where there was some evidence of this factional capture due to the presence of an ACPO:

Another time, my brother had an argument about using the community [resource] with the ACPO. He was upset, the ACPO ran and got the sergeant.

One family feels that it has been the subject of unfair behaviour by police, partly due to this capture of the police through the position of the ACPO. Others in the community, do, however, welcome the ACPO; they will talk to him in language if they have a problem. Several people discussed with the researcher the difficulties of being an ACPO and having to deal with your kinship ties and loyalty to family. ACPOs can be put in a position which non-Aboriginal police would not be put in; for example non-Aboriginal police officers are not required to arrest their own family members. It is important to note, however, that in other communities with ACPOs, it appeared that they had been able to overcome these issues around kinship ties. Other communities with ACPOs did not report evidence of factional capture and the presence of the ACPO was welcomed. One participant mentioned how having an ACPO is good but it is better for them to come from another community; they still understand the Aboriginal culture but they would not have close kinship ties to local people, i.e. they would obtain 'known outsider' status but have the added advantage of understanding the Aboriginal domain better than someone non-Aboriginal. As they put it, 'if local man is employed as police aid it is hard on him because he has family, it's easier if he is from another place, police try to employ locals for the job but they don't want it'. The group of Aboriginal organisations that made the Townsville submission (2007) argue that PLOs (Queensland's, Police Liaison Officers, similar to, but less involved in policing than the NT's Aboriginal Community Police Officers) are the 'meat in the sandwich' – trapped between both the police and the Aboriginal domain. They point out that '[t]his risks making the PLO passive rather than pro-active' (p21). The main barrier to ACPOs working in communities other than their

own (and therefore more effectively) may well be the lack of housing provision for ACPOs under the present system in a context of severe overcrowding and housing shortages.

Multiple avenues for problem resolution

While the police's particular 'known outsider' status and authority are valued (particularly, according to a number of respondents, by women), the research clearly shows that people have multiple avenues for pursuing their objectives of safety and justice. Police and the formal justice system are only one option in resolving disputes; depending on the community, people have other ways of obtaining peace and/or punishment for those who have perceived to cause of problem or crime. Traditional punishments and dispute resolution systems, including shaming, exclusion from ceremony, and corporal punishment are all still practiced; people have informal means from simply settling the issue themselves, talking strongly within the family, women's houses (see Musharbash, 2008 for an interesting discussion of these) and feuding violence. There are also hybrid Aboriginal-non-Aboriginal systems, primarily night patrol but also including community justice committees, safe houses, community service and community courts.

What would you do if you were a victim of crime?	Percentage
Phone the police	22
Go to the station	27
Tell night patrol	23
Talk to elders	15
Sort it out myself	13
Something else	5
No Response	22

Figure 56A: responses to the question "what would you do if you were a victim of crime?"

Examining the response to the question, "What would you do if you were a victim of crime?", we can see that there are a number of popular options. (Note that multiple responses were possible). Police appear to be the preferred option, for reasons discussed above. From the survey we can see that while going to the station was the most popular response, the next most popular response was night patrol, with talking to elders and sorting it out themselves also popular responses. It varied widely between communities; 48% of people in Community E mentioned they would call the police, with a highly regarded OIC, an ACPO and reasonably culturally appropriate policing. In Contrast community K had only 3% that would call the police, 15% that would call the station, and 39% who would go to night patrol.

People's choice of which avenues to pursue to achieve these ends is determined by: how they value the intervention of the police compared to traditional or hybrid safety and justice mechanisms; the responses and behaviour of the police, and the effectiveness of these alternative mechanisms. This first reason, that people may not engage with police regardless of how effective the police are, is to do with how they value Aboriginal law, safety and justice mechanisms per se. As Rowse (1992) discusses, non-Aboriginal attempts to break down the separateness of the two 'domains' may be resisted by Aboriginal people who want to maintain the autonomy of the Aboriginal domain separate

from non-Aboriginal control. This forms a culture of passive resistance as a resistance to this colonization (Trigger, 1992), and consists of a refusal to live in the way non-Aboriginal people do, including the exclusion of non-Aboriginal people from participation in that domain (Broadhurst, 2002). In the context of the survey, this section is likely to represent the 10% of respondents who do not want the Aboriginal people in the community at all, but may also include those who are ambivalent about police presence, wanting to get licensed for driving a car but not wanting police involvement in a dispute.

The second determinant of people's choices as to whether people utilize the police to pursue their community safety and justice objectives is the behaviour of police; that is people may be willing to use this method of dealing with a problem than others if they believe the police are working in an appropriate way. Distrust of the police, including the way in which they handle a problem reported to them, is a key barrier to reporting a problem to them (Blagg, 2008). People discussed how people watch the behaviour of the police and see how they respond to a problem before deciding to what extent that they were prepared to report problems to them. People can afford to 'disengage' from the police because of alternative dispute mechanisms. People may value the police in general, but when the police fail to provide safety or a serious incident arose, but would not be involved with the police:

Women ask for police station. Was good, we were. These new intervention rule is bad ..they should be closed up [because of what happened]. But it's a long way from the other police station in [place name]...They don't understand our culture...We want safe house for women...need something different, better than policemen, we want really strong night patrol, we got a weak one. Before women kids used to run here, my house is like safe house.

Thus in the results there was that correlation between culturally inappropriate policing, low levels of cooperation with the police, low levels of satisfaction with the police, and few perceived reductions in crime. The turn to alternative mechanisms is then largely driven by police behaviour – people are forced to use other means – as police become inactive as a result of being unable to manage the transition to an Aboriginal subject.

The third determinant is the effectiveness of alternative mechanisms to deal with problems. People mentioned a number of different avenues that they would go to if there was a problem. In general, there appear to be four main avenues. Three of these may be seen as solely Indigenous mechanisms; the fourth is the hybrid mechanism of night patrol. These Indigenous mechanisms are; formalized through ceremony, informal through family, and informal through feuding. 23% mentioned they would report a problem through night patrol; 15% overall mentioned tell an elder, and 13% mentioned that they would sort it out themselves. Each of these categories is ambiguous; people may tell elders or tell night patrols so that they can then in turn tell the police; other common responses included family. Whilst people may appear to be sorting a problem out themselves by going and hitting someone that earlier hit them, this may be in fact sanctioned by elders and to some extent ritualized, with other people banned from interfering, as participants in the research explained, and as also discussed in Memmott et al., (2001), which provides perhaps the most complete discussion of violence in Aboriginal communities.

A number of times in the research people explained the superiority of Indigenous justice traditions with their focus on reconciliation (Rowse, 1992) and the whole family. As one participant explained:

If the law isn't usurped from those who are responsible for it, it gives you self-esteem, responsibility and a good feeling of cleansing and closing issues. Aboriginal law doesn't allow you to carry grudges or get a feud going. If feuds explode in [the regional town], then Aboriginal law has been chopped off. In some places the law isn't working properly. We have finishing up business. That closes up issues – bringing closure – things are finished up and cleaned up. This cleanses country at the same time. Cleansing country is very important to us. Aboriginal law focuses entirely on the emotional well-being of the individual within the community.

For a number of participants, the concern was with the way Australian law seemed to punish the other people in the family – people showed me the children that had been left behind with their elderly grandmothers whilst their father was in jail; or people talked about the shame brought on the family by the relatives of the person who had been punished. The research did not examine the workings of these mechanisms, much of which are private, are this report cannot discuss them in detail. For the purposes of this discussion, the important points are that, where they still exist, they are seen as valuable, but in other places they may not be fully operational or they have declined in importance:

Community elders do look after it. The police have to take notice of community elders. No more old men to hold the law. [no more old men]. Men gotta follow male culture, young ladies gotta follow same thing for woman culture instead of drinking and drugs. They have to live and work. When something happens like fighting, police have to listen to them and they have to listen to police, that's the one.

The final set of avenues for resolution of problems are the hybrid mechanisms, principally night patrol but also including women's shelters, community justice groups and community courts. For a detailed case study of how a community set these up, how they operated, and what their impacts were, see Ryan (2001; 2004). Blagg and Valuri (2003) has discussed the work of night patrols in detail; their operational framework is also useful in this context (Commonwealth Attorney-General's Department, 2008), as is Walker and Forrester's (2002) review of night patrols in the Northern Territory. Blagg (2008) sees them both as a link between government services and the police, and also a buffer, diverting people away from contact with the formal justice system, referring them instead to alternative avenues like women's shelters, and also providing mediation services. Most of the active local night patrols participated in the research, explaining their role in the community. This is how one of them described their role:

We're cleaning the kids up from the public areas, ask them to go home, chase sniffers, sometimes it's hard for us. We're working from 9.30pm to 3.30am and then we write reports up for the police. If there's big trouble, we help stop them from trouble. If it's getting bigger and bigger, we get police, we talk to the elders, get them to come. ... Sometimes we got trouble girl and boy, we stop them [Aboriginal] way, because police are different. All those things

happen, under age. One boy was threatening girl with knife, calm him down [Aboriginal] way. If problems go further, we report to the police, police come and help us. Sometimes police can't wait, they don't talk to the leader of that person, because that's their job. Some people understand, some people can't understand.

From the research we can construct a model of the way night patrols work in Aboriginal communities in the NT.³⁵

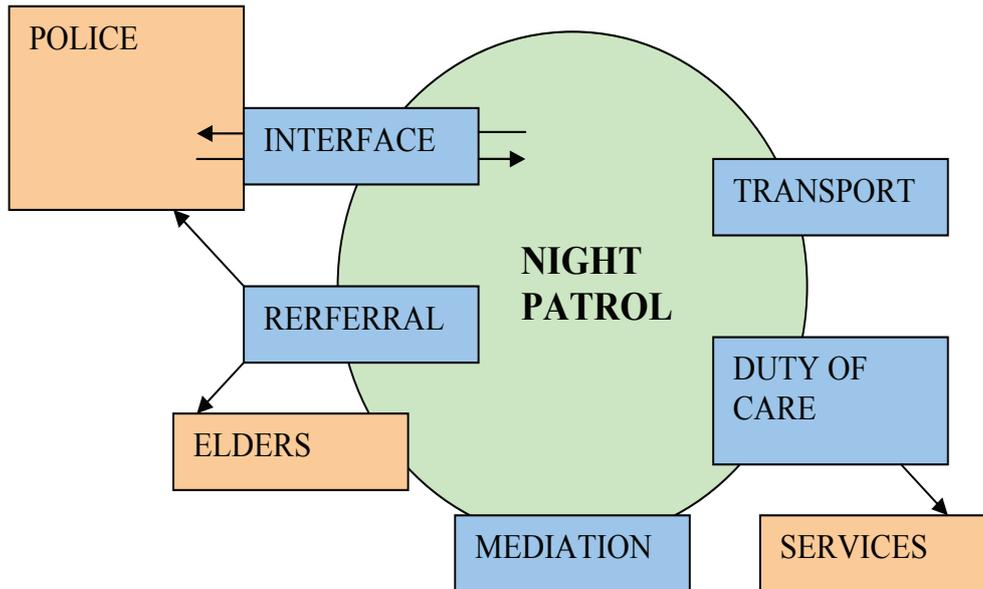


Figure 57: A model of Night Patrol work in Aboriginal communities in the NT

Night patrols appear to do five things:

- Act as an *interface* between the police and the community, providing translation services, explaining what is happening and what will happen to people arrested; or going with people to report something if they want to 'press charges', overcoming local fear of talking to the police. Police also appear to be requesting their assistance in investigating crimes, for example, break-ins.
- Providing a *referral* service, either to the elders or other community services, or to the police as appropriate to deal with problems that occur.
- *Mediation* between parties in a dispute, sitting down and talking with them 'Aboriginal way' in order to resolve a conflict before it escalates.
- *Transport* for intoxicated people, or people without alternative means of transport. This role is important in communities with a club, and in communities where few people have roadworthy vehicles and a driver's licence. Communities

³⁵ This may not be totally congruous with the *Operational Plan*, as developed by the Attorney-General's department; as discussed in Blagg (2008), due to of the hybrid nature of night patrol they are also responsible to the community.

generally have no public transport and night patrol is often the only transport alternative to driving intoxicated or unlicensed/unregistered.

- Carrying out the community's *duty of care*. This is not really established in the literature but emerged as an important duty in the research. As one night patrol worker pointed out: 'So far out, if someone is visiting, drinking that far out, something happens, they don't take their medicine, they die, they we're gonna get payback, Aboriginal law if someone dies, can cause a lot of trouble.' Communities have a duty of care to look after visitors to their community, if something happens to that person there is a punishment for failing to provide that care which can often be serious. A number of night patrol members expressed concern that they were unable to check up on the most unsafe areas – the drinking camps, because they were not allowed to drive outside the town boundary. This duty of care extends locally and also includes taking people to sobering up shelters.

As with other avenues for resolution of a problem, the various hybrid mechanisms cannot be discussed in detail here, but there is a substantial body of literature on them; see, for example Atkinson (2002), Blagg (2005; 2008) Cuneen (2001), Ryan (2001). These hybrid mechanisms are especially suited to problems that have emerged due to the changed nature of the Aboriginal domain as a response to colonization. As Blagg (2005, p320) argues:

There are numerous points of intersection between Indigenous and non-Indigenous domains, and these generate issues that could not be dealt with easily by traditional law and penalty – they include alcohol-related issues, family violence, juvenile crime and anti-social behaviour. The non-Aboriginal system has also struggled to provide solutions to these crises in Aboriginal communities. It is around these issues that some constructive hybrids could be seeded and nurtured. However, to do so, we need to constantly be on guard against imposing non-Aboriginal values on Aboriginal people and perpetuating systemic forms of discrimination.

As discussed, Aboriginal people choose between multiple avenues for the resolution of a problem. Whilst the police may (or may not) be seen by many as valuable in abstract, the behaviour of a particular police officer, and the strength of alternative mechanisms will determine the choice between those multiple avenues. 71% of people provided single responses to the question of "what would you do if you were a victim of crime?", whereas 29% provided multiple answers. Even given that 'crime' is a particularly western concept (as opposed to for example, *māri* ("trouble, bother") in Yolngu matha), people clearly demonstrated a range of alternatives. People appear to choose in three ways: firstly, because people have an attachment to a particular avenue; secondly, depending on the problem; and thirdly, through an escalation model – if one avenue does not yield results, another is tried until a problem is resolved.

The first choice method, attachment to a particular means, may be due to a number of factors, for example, if they have a personal relationship or a relative in the police or in night patrol. A number of places had night patrols that only serviced one family, or only provided partial services to other families. People may have particular views about the value of one avenue over another based on their behaviour or experience. The second

choice method, that of using a particular avenue based on the issue, also appeared reasonably widespread. As one person discussed:

For the serious crimes, like murder or sexual assault, the police need to deal with that. If locals got involved they would just kill them. Police shouldn't make a big deal about ganja, it's not a serious crime. Violence also isn't too big a deal, people shouldn't go to jail for it. It's better dealt with by getting people to apologise, or getting people to sit down and talk about the problem. Families can sort out stealing and vandalism themselves without going to the police.

People in the survey often displayed sophisticated beliefs about the police regarding the usefulness of cooperation. In certain communities, high proportions of people (up to 67%) would only answer police questions depending on what they were asking. Other places, people just indicated whether or not they would cooperate with the police in general, providing a yes or no answer to this question. In some places, people clearly believe the police should be involved in some issues and not in others. Although some people were committed to a particular avenue, others talked about a different way of choosing between the different avenues. An example of pyramid or escalation-style approaches to problems is this response; 'Sort it out myself, then elders, then police.' People appear to move from informal to more formal mechanisms, and from Aboriginal to non-Aboriginal ways of resolution of a problem, however, more research is needed on this issue.

Aboriginal agency to determine police practice

Clearly, Aboriginal people as targets of police work, and particularly in the context of being a minority group, the much higher police presence on Aboriginal land and the much greater powers accorded to police with regards to Aboriginals, are vulnerable to police power and the courts. Aboriginal people significant negative outcomes, including over-representation in jail, violent or abusive experiences with the police, and cultural conflict. People in communities are very vulnerable to inappropriate policing including the abuse of police powers. In the case of more marginalized members of the Aboriginal community, for example, women and families with little ceremonial, political or economic power, people may have little alternative but to turn to the police for help with issues like domestic violence. In these cases, responsive and sympathetic police action is vital.

At the same time, Aboriginal people are not always passive targets of policing within the Aboriginal domain, where they are able to exercise significant power. As (or where they are) subjects of policing, Aboriginal people are able to influence the practices and outcomes of the police. Aboriginal people are creative in responding to police practices, including seeking to reduce the negative impacts of them on the community. Aboriginal people in their own domain have a number of ways to influence the behaviour of service providers located within their communities. This occurs in a number of ways; firstly, and perhaps most importantly, by selective engagement – Aboriginal people can simply not participate in something if they don't agree with it; for example, low attendance at a school in which the teacher is disliked.

In this way, in order for a local service provider to deliver successful outcomes as determined by organizational heads and politicians outside the Aboriginal domain, this person needs to negotiate and provide something of benefit to local people. (Wohling (2001) terms engagement on this principle 'reciprocal thinking'), or deliver their service in

a way in order to obtain participation in the project or to obtain legitimacy. For example, something as simple as providing food to get people to come to an information session. This allows Aboriginal people to have significant direction into service delivery even when not controlled by them. Police need a certain amount of cooperation from the community in order to do their job and meet centrally-determined targets. As Broadhurst (2002, p276) explains, 'Community policing and customary forms of dispute regulation have been reinvented and coopted in the interests of police managerialism'. Police need the community to deliver for their management. As one participant put it perhaps more elegantly, 'If he feeds me, I'll feed him.' People will not cooperate unless they believe the police are acting in their interests (Bayley, 1986).

Secondly, Aboriginal people control the flow of information to non-Aboriginal people in order to determine where and how people work; most simply, if those service providers do not know about something, they will not affect it. Because of the size and remoteness of the Indigenous estate, service providers simply do not know what is going on unless Aboriginal people believe it is in their interest for them to know it. Police do not know, for example the back roads in a community and are dependent on locals to show them. Things that happen outside the public area are, in effect, invisible to police unless someone tells them about it. As one person put it, 'Its like hide and seek in the community with the police.' On average, only 20% of people surveyed indicated that they would always answer police questions. In response to this the government has given police extra powers on Aboriginal land, through the NT Liquor Act, the NT Interpretation Act and the Northern Territory National Emergency Response Act, as well as extending the Australian Crime Commission's National Indigenous Child Abuse and Violence Intelligent Taskforce (NIITF), with additional coercive powers, including that people cannot mention to anyone that they have been questioned by the NIITF³⁶. These extra powers can be seen as the government trying to compensate for the lack of information and cooperation with the police by Aboriginal people, but these extra powers are unable to obtain the desired results because, as the research shows, police are ultimately dependent upon cooperation from Aboriginal people, and this cooperation only happens when police are acting in a culturally appropriate way and in a way that the community sees as beneficial.

Thirdly, Aboriginal people can draw on a substantial body of sympathetic non-Aboriginal people outside the Aboriginal domain, including the use of media, personal networks and so on, for example in the recent GetUp! campaign regarding continued government funding of Aboriginal homelands³⁷, to lobby on their behalf in seats that are more marginal than their own³⁸. Lastly, there is also the use of their superior numbers to determine who can and cannot be physically present in the community; tales abound in the Northern Territory of unpopular administrators simply driven out of town, and certainly some Aboriginal people participating in the survey believed they ultimately had that kind of power.

While some people in communities have little alternative to the police, many people can afford to respond in this way to police presence because they have what they believe to be, in comparison, better avenues for dealing with these problems, as was discussed

³⁶ <http://www.fahcsia.gov.au/about/publicationsarticles/corp/BudgetPAES/budget2008-09/IndigenousFactSheets/Pages/ClosingGapIndigAusNTTaskforceFS16.aspx>

³⁷ <http://www.getup.org.au/campaign/Homelands&id=734>

³⁸ Aboriginal majority seats in the NT parliament were largely uncontested at the 2008 election, e.g. Arnhem, Central Desert (http://en.wikipedia.org/wiki/Northern_Territory_general_election,_2008).

above. Whilst police are victims of poor police practice, Aboriginal people have significant power over the police and viable (more or less effective) alternatives to the police. Aboriginal people in these communities are in contrast to the cities, the subjects of police work. A narrative which sees Aboriginal people purely as passive victims of police power downplays both the resilience and resourcefulness of Aboriginal people in communities, and does not acknowledge the success that Aboriginal people have in transforming practices of local service provision to meet their needs, nor the importance of cooperation with the community to police effectively. The alternative understanding, as discussed here also indicates why increased police powers, or increased sentencing or criminalization, are unlikely to deliver the outcomes that government desires without accompanying movements towards appropriate police practices. Leaving the development of these practices largely to chance means that the divergence in outcomes and experiences with the police in different communities is likely to continue.

Aboriginal people as objects of the justice system

Whilst Aboriginal people have influence over police work, and in a number of communities, there is a successful transition to being the subjects of police practice, the ability of police to work in an appropriate manner (and therefore effectively get rid of criminal behaviour) is also limited by factors beyond their control. Socio-economic factors, for example, continue to provide little alternative for people to act in an illegal manner in certain circumstances. Of central importance amongst these factors is the operation of the justice system. The police are the 'gatekeepers' of this, and they play a major role in determining who will be processed for action by the courts and prisons. However, ultimately, the how someone will be dealt with by the larger criminal justice system is somewhat beyond their control (Smith and Natalier (2005)).

Whilst in many cases Aboriginal people have become the active subjects of policing, Aboriginal people are clearly still the passive targets of the laws and the courts. Laws discussed on pages 51 on increasingly to target Aboriginal people, and result in higher sentencing than in other states and territories (Cuneen, 2001a). There has been a massive resulting increase in the criminalization of Aboriginal people in the Northern Territory. In the past 10 years the Northern Territory adult prison population has increased by 45%. In 2007/2008, the rate of imprisonment of adults in the Northern Territory was 568 per 100,000 adults which is almost 3.5 times the national average rate of imprisonment of 164 per 100,000 adults. Of this total 82% of the NT prison population was Aboriginal, despite making up only one third of the Territory's population. Furthermore, in the last 5 years the Northern Territory juvenile detainees have increased by 50%. During 2007/2008, 89% of juvenile receptions involved Aboriginal detainees and 98% of sentenced juvenile receptions were Aboriginal. In 2007/2008, the Northern Territory had the highest rate of recidivism at 44.6%, as compared with a national average of 37.5%.³⁹ As one Aboriginal person in the research saw the negative workings of the criminal justice system:

³⁹ All figures from Northern Territory Department of Justice – Correctional Services Annual Statistics – 2007-2008, (http://www.nt.gov.au/justice/policycoord/documents/statistics/NTCS%20Annual%20Statistics%202007-08_EBook.pdf)

The law is connecting, but people are not. We look at the family behind boy. They don't see family behind boy, took him like a garbage bag, took him to [the] dump.

What has occurred in the NT is, in effect, nearly the opposite of what the recommendations of the Royal Commission into Aboriginal Deaths in custody was calling for. According to Cunneen and MacDonald (1997), this is because there has been a failure on the part of governments to adequately implement specific recommendations relating to the administration of the criminal justice system, what they call a 'massive lost opportunity' (p10), and more broadly because 'there has been a wider socio-political context working against the interests of Indigenous people receiving fair and just treatment from the legal system' (p10), including emphasis on more punitive approaches to law and order since the RCIADIC including the continued criminalization of public drunkenness and mandatory sentencing. Thus, while policing may be (in some cases) becoming more appropriate, 'good initiatives are constantly disabled by punitive populist laws, policies and strategies' (Blagg, 2008, p19).

With Aboriginal people are passive targets of legislation which criminalize common behaviours without (according to the prison statistics) reducing the extent of this behaviour, they are also passive objects of the court system. Whilst Aboriginal people recognize the ceremonial nature of the court system, with magistrates widely known as *bunguwa* or ceremonial leaders, they are generally unclear to the language and functioning of the court system, which is 'obscured by the ceremonial mystifications of Anglo-Australian legal culture' (Morris, 1997, p n/a). As evidence for the fear in which Aboriginal people often have of the court system, in one community, the threat of being called to testify if there was a break-in was used by night patrol to encourage young people to go home at night; in another place a relative of a respondent had moved communities to avoid having to testify in court. Although this research did not discuss with people their understanding of court issues, other research with Aboriginal people has drawn attention to this, e.g. ARDS's '*An Absence of Mutual Respect*' (2008); Blagg (2008) also discusses this issue.

One issue that came out time and time again in Communities A (in particular), B, J, K, N and N is over the difficulties of access to court after receiving a summons by the new police. Court is often several hundred kilometers away; what makes matters worse is that the reason for being summonsed to court is likely to be to do with driving unregistered; people cannot drive legally to court and there are often no transport alternatives. In this case, if they cannot appear in court, a warrant is put out for their arrest and their sentence is likely to be increased. As one person put it:

People have no money, sometimes they can't get to court. Miss the date, no car, no money to fly. our money goes to basic card, food card. now it's charter. Can they make courthouse here? Upgrade their [the police's] houses and courthouse. Or in [nearby community].

In one community, we were told the story of how someone was required to go to court to testify as a witness on behalf of the victim, but had to hire a troop carrier to get there and was charged \$800. Because of the increase in size of the alcohol prescribed areas, many people are now going into regional town centres to binge drink, as discussed in Part 4. They will receive a summons for an offence committed whilst in town, but after returning to their home community, they are then unable to afford to pay or to get a lift to get back to the court in the regional centre. As one person pointed out, 'Lot of them here

never get to court. Make trouble in town, run back and cause trouble.' Even when Aboriginal people get to court in the Northern Territory, they are consistently discriminated against by the Northern Territory's refusal to fund Aboriginal Legal Aid Services, who have to rely on the Commonwealth government for funds and are underfunded compared to their mainstream legal counterparts (NAAJA, 2008b).

Aboriginal beliefs about the ineffectiveness of prison may explain both the high recidivism rate in the NT, at 44.6% in 07/08 – and that Aboriginal people have a much higher tendency to recidivism than non-Aboriginal people in the NT (three to five times, according to the NT Office of Crime Prevention (2005)). Many participants in the survey talked about how prison is not a deterrent for people from their communities: "Just like a holiday camp in there [gaol]. That's their home. Why can't these guys get home detention?" People explained how gaol, instead of reducing offending, acts to reinforce the drivers of that offending behaviour. For participants in the survey across the NT, people closely identified offending with people's lack of attention to their responsibilities with consequent offending. Instead of staying in (largely alcohol-free) communities to carry out their responsibilities with respect to land, family, culture and ceremony, people would go and stay in the regional town. Here they would get up to mischief, drinking, fighting and so on, and in the end, end up in gaol. Here in gaol they were fed and had a bed at night; they were even more removed from their kinship network and the responsibilities than before. Irresponsibility was, to their mind, 'rewarded' by further estranging people from their home communities.

Gaol did nothing to reconnect or return to their responsibilities; instead it bred a separate, and damaging culture. People become further linked into new networks, centred in the regional towns, with their comparatively easy access to alcohol and their lack of cultural responsibility, for which gaol is sometimes seen as a rite of passage. As one respondent explained, "The more people get in lock up, the more cranky they get, and then they want to drink. Gotta keep 'em away from that thing. Better to deal with it ourselves." It should also be noted that this observation is consistent with Indigenous and non-Indigenous writing in the area (e.g. Atkinson 2002), and what has been effective in other places. As Hogg (2005, p2) points out:

The present high level of criminal justice intervention in Indigenous lives and communities, whether it is properly characterised as discriminatory or not, cannot but perpetuate the levels of crime it seeks to control. Quite apart from anything else it simply wreaks social, demographic and economic havoc on families and communities to have so many of their members caught up in the disruptive cycle of the criminal process.

In this context, the NT government's response to increases in offending and increases in gaol populations, that is - increasing the severity of punishments and increasing the range of behaviours criminalised by the Territory - is likely to be counter-productive.

For participants in the survey, gaol acts to perpetrate and further increase the drivers of criminalization in which the underlying problems, that of lawlessness of individuals, is not addressed. By contrast, people believed that alternative punishments, involving shaming and reconnection with the community were more effective. It appeared that the Northern Territory's community work order program was largely non-operational in the communities visited, perhaps because of the upheavals in community governance with the changeover to shire-based local government, and also likely due to the voluntary

nature of the program – there is no financial incentive to be a supervisor – instead volunteers are required to provide supervision.

NT Correctional services furthermore has little presence in the Aboriginal domain; its only offices in Aboriginal communities are at Wadeye and Nguiu, with officers stationed in two Warlpiri communities – Yuendumu and Lajamanu.⁴⁰ As one person put it: “There’s a vicious cycle of people being booked – fined – jail. Community service should go on instead of jails”; and another; “There was a program before for troublemakers. There were meetings and people had to wear pink shirts and pick up rubbish. They used to do it and they should bring it back.” There were widespread calls for the return or establishment of community service programs, and the use of sending people to outstations as a punishment (e.g. ‘There should be home detention at outstation. They should stay there with their families. Only for 2-3 weeks they should go outstation. Taking them to Berrimah, its no use’). Langton (1992, pn/a) writes something very similar to the observations of survey respondents:

..[A]rrest and jail is not a deterrent because it does not teach anything to young people to prevent them from behaving antisocially. Aboriginal people are adamant that their own Law and the pressure of families would be a far better deterrent and would work to prevent minor crime..’

Participants in the survey saw that, by using traditional punishments of shaming, by bringing people back to communities and reconnecting themselves with their responsibilities, it was possible to both punish and reintegrate many offenders and address the drivers that promote lawlessness and irresponsible behaviour. This process is very similar to that of Indigenous justice systems, which were discussed above on page 159. Given that Aboriginal people themselves are most likely to understand what is causing social dysfunction within their domain, and that they are also most likely to understand what will most effectively fix it, attention should be given to reinvigorating community work order programs. Atkinson’s *Trauma Trails: Recreating Songlines* (2002), discusses in a mainly Queensland-based context what healing and reconciliation looks like in an effective hybrid program. As she points out, ‘Prison programs generally do not provide life skills, nor allow them to deal with original trauma which is a fundamental part of their offending cycles.’ (*ibid*, p234) More potent perhaps in the testimony of one participant in ARDS’ research in a East Arnhem context:

“Can the walls of the cells teach, instruct and rehabilitate those people inside? Why don’t the Balanda send those *Yolŋu* back to their *yirralka wāŋa* [clan’s estate] and we can give *raypirri* [instruction]. The country will also speak to them and remind them of who they are and what their responsibilities are.” (2008, p17)

This short discussion cannot give a complete picture of Aboriginal people’s experiences of, and opinions about both courts and prison. More research would be of great value in this area as, as with other issues, there is a lack of research about these aspects of the criminal justice system in the Northern Territory. It is striking however that, even though, the research was not designed to gather information about these areas, large numbers of people were concerned about the following issues in particular and wanted them included in the findings of the research:

⁴⁰ <http://www.nt.gov.au/justice/corrservices/index.shtml>, accessed August 2009

- Difficulties in getting to court because of the lack of alternative means of transport, and the negative impacts of this
- The failure of the prison system to provide an effective deterrent and to deal with the causes of crime; by contrast the largely defunct community work order program was praised and people wanted it brought back in.

In the context of a justice system in which laws are perceived as discriminatory; and which gives police increased powers with respect to Aboriginal people; in which the court system is largely incomprehensible and difficult to access; in which prison perpetrates the drivers of offending; and what Aboriginal people believe does work is ignored and unfunded, there is a limit to how 'appropriate' policing can be. Police, as the gatekeepers of the criminal justice system, ultimately have to work through the criminal justice system. Some evidence of a belief amongst police that the current nature of the justice system is inappropriate did appear to emerge from the research, for example, police extensively using informal Indigenous mechanisms for resolution of problems, or 'going easy' on people with regards to alcohol and traffic offences. This is also suggested in the literature (e.g. Cuneen, 2001; O'Neil and Bathgate; 1993; Smith and Natalier, 2005). As elders discussed in the research, the criminal justice system limits communities willingness to use the police if they believe that it will cause more problems than it solves. It also limits the way in which police can be appropriate if the punishments for committing a crime or offence are inappropriate. It also limits the effectiveness, authority and legitimacy of police work. As Broadhurst (2002, p277) points out:

The tendentious moral authority of measures like mandatory detention, three strikes and zero tolerance both provokes resistance and sustains the weak purchase of Anglo-Australian law within the Aboriginal domain.

Unlike policing in remote communities, in which police can and (sometimes) do respond to Aboriginal as subjects by changing police practices, Aboriginal people remain only the objects of the Northern Territory legal system. They do not participate as subjects in the creation and administration of law and punishment systems. Police are limited as to how 'appropriate' they can be in the context of a wider justice system that is inappropriate. Likewise, even where police are respect and trusted, poor opinions of the justice system more generally may limit Aboriginal use of the police to deal with problems. The present structure of the legal system in the Northern Territory, along with socio-economic factors that encourage offending (see the next part of the report for these in two contexts) also means that appropriate policing is necessary, but not sufficient for creating peaceful and lawful (by whichever standard) Aboriginal communities.

**PART 4: THE 'OVERDETERMINATION' OF ABORIGINAL
OFFENDING: THE EXAMPLES OF ALCOHOL AND TRAFFIC
OFFENCES**

Introduction

Over the course of the research on policing, there were many other issues raised by Aboriginal people regarding the law and the justice system. In keeping with Aboriginal ownership of this research, the direction of the report has, in part, been determined by the agenda of the participants in the research. Accordingly, where large numbers of people have raised a broader issue, this has been included, as in, for example, the discussion of Aboriginal views of the prison system above. Because of this, the report includes this section, which is on two issues that came up over and over again in the research in every community – patterns of alcohol consumption and traffic offences. People commonly discussed these two issues with the researchers. Alcohol and motor vehicle-related offences are the two most common areas in which Aboriginal people have contact with the justice system; they are also two areas in which, policing, the law and socio-economic factors combine to drive very high rates of offending and criminalization, either making or contributing to virtually every case that comes before court in Aboriginal communities.

The importance of factors that are outside and unrelated to the judicial system – that changes to the law, punishment or police activity cannot primarily address - should be stressed in this context. As Homel et al (1999, p183) point out in their discussion of crime and violence prevention in Aboriginal communities: ‘...[A]cts of crime stem both from the characteristics of people (perhaps impulsivity or poor social skills) *and* [their emphasis] from the social context...’. Wilson (1982) also discusses the importance of the ‘situation’ in determining violence; for example, the accessibility of alcohol, the size of the population, isolation, and where traditional culture was still relatively intact. Action to address the factors driving criminalization in these two key areas of alcohol and transport are likely to lead to large decreases in offending and Aboriginal contact with the criminal justice system. The following information is somewhat limited by a lack of data. More research is necessary on the impacts of the new, NTER regime on behaviour, and the key barriers to both responsible drinking and compliance with the laws with regards to traffic matters.

ALCOHOL

Figure 58 below shows the overall responses to the survey regarding the presence or absence of particular problems in their communities. Of these, alcohol comes in as the most common problem; or at least, the problem that the greatest number of people considers generally or sometimes a problem in their community. This is despite, as shown in figure 5 on page 36, more respondents reported that alcohol has improved in their community than any other problem. Only one community was ‘wet’ before NTER, and that community reported that alcohol was largely not a problem there prior to the NTER. Clearly police presence and activity has made a difference (alcohol appeared to be amongst the ‘top three’ types of crime that police were active on along with violence and motor vehicle offences. So whilst we have seen a large decrease in alcohol-related problems in the communities, alcohol is still the most common problem in these communities.

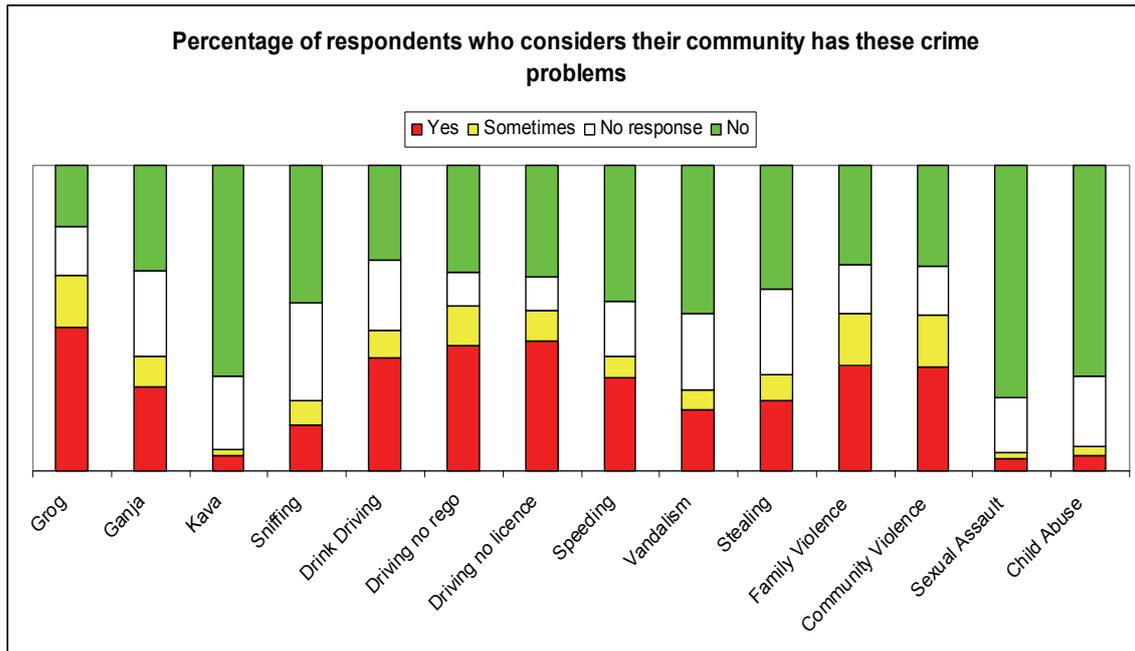


Figure 58: Proportions of respondents that think crime is a problem in their community overall

Furthermore, alcohol is an ‘enabling’ factor which leads to other crimes, particularly violent crimes. Memmot et al (2001) discusses the relationship between alcohol and violence in detail, for example:

‘What must be recognized and addressed is the strong parallels between people involved in alcohol abuse and those who are violent towards their families and their relationship with their community and the outside world’ (p27).

See also Atkinson (1991; 2002) for an examination, from an Indigenous perspective, of the relationship between alcohol and violence, and its destructive impact on Aboriginal communities. There are estimates that alcohol could be a factor in up to 90% of all Indigenous contacts with the justice system (ANCD, 2009). In discussions with selected police officers who had been stationed in Aboriginal communities, they identified alcohol as both the main problem and the main causal factor for violence and other crimes in the community. Here’s one example from the interview transcript:

[Researcher] What do you think are the main factors that causing a lot of the crime problems in [the community]?

[Interviewed OIC] Grog, alcohol for sure.

Here is another:

[Researcher] Within these...communities, what did you consider were the main crime problems in the area?

[Interviewed OIC] The primary problem we had out there to do with alcohol in restricted areas, Aboriginal land, people bringing alcohol in to the homeland location and subsequent reports of person carrying on through the night because of intoxication.

The *Little Children are Sacred* report stresses the importance of alcohol in remedying child abuse in Aboriginal communities. The authors believed that ‘unless alcoholism is conquered, there is little point in attending to any of the other worthwhile proposals in this report. It is a priority!’ (Wild and Anderson LCAS, 2007, p18)

On this issue, the designers of the NTER appear agree. Dealing with the availability of alcohol is a key element of the NTER; there have been essentially two avenues designed to reduce the presence of alcohol in Aboriginal communities. Firstly, there is the establishment of additional police stations, and second, there has been the modifications to the Liquor Act by the NTNER Act. Much of the NT Liquor Act is concerned with licencing premises to sell alcohol but Part VIII “General and public restricted areas” deals with creating alcohol-free areas, with general restricted areas defined in section 74 to be wholly alcohol free, and public restricted areas which allow alcohol to be consumed on private premises. The basic prohibition is as follows:

“75. Prohibitions for restricted areas

(1) Subject to this Part, a person shall not:

(a) bring liquor into;

(b) have liquor in his possession or under his control within; or

(c) consume, sell or otherwise dispose of liquor within,

a general restricted area...

(1B) A person is guilty of an offence if the person consumes liquor within a public restricted area.

Maximum penalty for an offence against subsection (1B): \$500.”

However:

86. Not an offence to transport liquor through general restricted area

(1) It shall not be an offence under section 75(1) where a person brings liquor into, or has liquor in his possession or under his control within, a general restricted area, for the purpose only of transporting that liquor to a destination outside a general restricted area.’

As mentioned, police have considerable powers under this Act:

95. Powers of search and seizure

(1) An inspector may, without a warrant:

(a) do 1 or more of the following if the inspector reasonably suspects a relevant offence has been, or is being or likely to be, committed:

- (i) enter and search an area of land (whether or not it is the general restricted area);
 - (ii) stop, enter, search, remove and retain a vehicle, vessel or aircraft (whether or not it is in the general restricted area);
 - (iii) stop, detain and search a person in connection with the exercise of a power under subparagraph (i) or (ii);
 - (iv) search a thing in connection with the exercise of a power under subparagraph (i), (ii) or (iii); and
- (b) seize a thing found in connection with the exercise of a power under paragraph (a)(i), (ii), (iii) or (iv) that the inspector reasonably believes to be related to a relevant offence.

(2) In addition, an inspector may, without a warrant:

(a) do 1 or more of the following on a random basis for the detection of a relevant offence that has been, or is being or likely to be, committed:

(i) stop, enter, search, remove and retain a vehicle (whether or not it is in the general restricted area);

(ii) stop, detain and search a person (whether or not in connection with the exercise of a power under subparagraph (i));

(iii) search a thing in connection with the exercise of a power under subparagraph (i) or (ii); and

(b) seize a thing in connection with the exercise of a power under paragraph (a)(i), (ii) or (iii) that the inspector reasonably believes to be related to a relevant offence.

(3) A person is guilty of an offence if the person:

(a) obstructs the exercise of a power under subsection (1) or (2); or

(b) fails to comply with a reasonable request made by the inspector for the purposes of exercising powers under subsection (1) or (2).

Maximum penalty: 100 penalty units...

(8) An inspector who seizes a container that the inspector reasonably believes contains liquor may immediately:

(a) empty the container if it is opened; or

(b) destroy the container (including its content) if it is unopened.

(9) If the container is not so emptied or destroyed, the inspector must ensure it is taken to a police station to be destroyed.

(10) The inspector may use any reasonable force or assistance in acting under this section.

(11) A police officer is taken to be an inspector for this section (except subsections (5) and (6)).

Police therefore can, in enforcing a restricted area, enter any premise and search any person, car or other vehicle in conjunction with this act anywhere in the Northern Territory; they do not need a reason for searches in public places; the act empowers them to conduct random searches of people and vehicles. They can seize alcohol or any other item, including a vehicle, associated with the alcohol, for an offence that has not been, and may never be committed. As discussed in the complaints section on pages 51 on, these powers are open to abuse, and people have a number of complaints about police activity under these powers, particularly the searching of houses and bags (interestingly, searching cars and people did not come up as complaints), as well as the confiscation of alcohol which was unopened and never intended to be consumed in a restricted area. There were a number of complaints about police taking alcohol of people as they exited liquor stores, for example: "Police grab people as soon as they come out of the bottleshop – people get grog taken off them at [the supermarket, when they are getting taxi." Importantly, other items may be found in the process of searching cars and people, and although these powers are ostensibly for the purpose of alcohol, the Act greatly increases the power of police generally with respect to searches anywhere in the Northern Territory.

12 of the 14 communities in the research were general restricted areas, two were not. Previous to the NTER, the boundaries of the restricted areas were set by the application to the NT Liquor Commission. The distance to the 'boundary' varied between the communities; some places the boundary was at the entrance to the community (e.g. Community A), at other places it was several kilometers out. Where roads met the boundary, marked by a small sign, the community had a drinking camp; by and large, people would bring alcohol to this drinking camp to consume it before returning to the restricted area. Before the establishment of these new police stations, the Liquor Act-restricted areas were variously either partly enforced by local ACPOs, visiting police, informally by local community members using informal traditional punishments like shaming, or not at all. Previous to the establishment of police stations, there was difference between communities as to the extent to which the restrictions were obeyed, but the research did not determine this for each individual community.

Under the NTRER act, the NT Liquor Act was modified as follows (Section 12, NTER Act):

Modification: prescribed areas

(1) The Liquor Act has effect as if:

(a) each prescribed area were a general restricted area under that Act; and

(b) the offences against subsection 75(1) of that Act, so far as they relate to a prescribed area, were replaced by the following provisions of this section.

(2) A person commits an offence if:

(a) the person:

(i) brings liquor into an area; or

(ii) has liquor in his or her possession or control within an area; or

(iii) consumes liquor within an area; and

(b) the area is a prescribed area.

Maximum penalty:

(c) 10 [penalty units](#) for a first offence; or

(d) 20 [penalty units](#) for a second or subsequent offence....

(4) A person commits an offence if:

(a) the person:

(i) supplies liquor to a third person; or

(ii) transports liquor intending to [supply](#) any of it, or believing that another person intends to [supply](#) any of it, to a third person; or

(iii) possesses liquor intending to [supply](#) any of it to a third person; and

(b) the third person is in a prescribed area.

Maximum penalty:

(c) 10 [penalty units](#) for a first offence; or

(d) 20 [penalty units](#) for a second or subsequent offence...

(6) If the quantity of alcohol involved in the commission of an offence against subsection (4) is greater than 1,350 ml:

(a) the maximum penalty for the offence is 680 [penalty units](#) or imprisonment for 18 months; and

(b) a person who engages in conduct specified in subparagraph (4)(a)(ii) or (iii) is taken to have done so:

- (i) intending to supply the alcohol; or
- (ii) believing that another person intends to supply the alcohol; as the subparagraph requires, to a person in a prescribed area.

Much of this section of the Act is concerned with developing wording so that (non-Aboriginal) people can still consume alcohol whilst engaged in activities non-Aboriginal people undertake on Aboriginal land, particularly tourism and recreational fishing; this has been cut out in the section reproduced above for clarity. The NTNER Act therefore modifies the NT Liquor Act so that all 'proscribed areas' – in practice all Aboriginal land – is now a general restricted area; in addition, there is now an additional offence, with a punishment of up to 18 months imprisonment, for supplying alcohol; and if somebody has more than 1,350 ml (equivalent to a six pack of beer) in their possession, they are deemed to be supplying alcohol. In short, the geographic area covered by the Act has increased dramatically from individual parcels around the majority of Aboriginal communities in the NT to all Aboriginal land, with the border of the restricted areas moving from just outside or a few kilometers outside the communities, and is now up to several hundred kilometers away from the edge of the communities. (There are some exceptions – for example, previously East Arnhem was entirely alcohol free). With this expansion has come increased police powers and increased penalties.

This legislation has also coincided with the introduction of alcohol restrictions in public areas in nearly all of the Northern Territory's regional centres in 2007 and 2008⁴¹. Drinking alcohol in a public place in Alice Springs, Katherine, Mataranka and Tennant Creek is now an offence; Alcohol cannot be consumed in some public areas in Darwin and Nhulunbuy. These pieces of legislations and declarations have effectively criminalised the consumption of alcohol throughout the 'Aboriginal domain' in the NT – Aboriginal land, plus the 'public areas' in the towns and cities which have become in many ways Aboriginal space through Aboriginal occupation and use of them for a variety of means. No research appears available on this issue, but, given that relatively few Aboriginal people frequent white bars and pubs in the territory, the presumption is that these places are not a comfortable place for people to drink – or that door policies (for example dress codes) seek to discriminate against Aboriginal people. Anecdotal evidence suggests this is the case; research is required to draw conclusions as to why but we must presume in the meantime that there are reasons for Aboriginal people, by and large, not frequenting these venues. They are, with a few exceptions, not part of the 'Aboriginal domain'.

There appears to be few places outside of certain regional pubs and clubs, including those in Aboriginal communities, in which it is legal for Aboriginal people to drink. The remaining areas appear to be limited to road reserves outside of Aboriginal land, and it is indeed the case that Aboriginal drinking is concentrated in these areas. It is striking that current legislation and the extent of declared public and general restricted areas is so comprehensive that, unless part of 'mainstream society', Aboriginal people are limited to legally drinking in the Northern Territory only a small number of Aboriginal-orientated (generally regional) pubs, and roadside reserves outside Aboriginal land. (Darwin is almost the only exception in that it still has some public areas in which drinking in public has not been criminalised, however, drunk and disorderly laws still apply). In this context, it is worth considering the argument of Cunneen and MacDonald (1997, p11) that: 'Anomalies and discriminatory practices abound in the operation of public drinking

⁴¹ For a comprehensive overview, see <http://www.nt.gov.au/justice/licenreg/liquor/restrictions.shtml>

legislation, appealing to racist elements in the community and in local government'. This report however cannot come to a conclusion on this issue other than noting the comprehensiveness of the targeting of the Aboriginal domain for criminalising alcohol consumption. It is interesting to note how legislation and declarations of restricted areas are at odds with the recommendations of the RCIADC, which includes recommendations on the decriminalization of public drunkenness laws.

Alcohol issues featured prominently in the survey but the insight the quantitative data provides is limited to the number of people that think it is a problem and whether it has become worse or better since the police arrived. However, an abundance of qualitative data emerged on the subject, and, because each community has been examined as a separate case study, it is possible to compare differing experiences and differing impacts. Definite conclusions cannot be made, and more research is needed on a subject in which a comprehensive picture may be difficult to ascertain. Having said that, there are clear trends and issues that have emerged in the course of the research, often unintentionally, that can shed much light on the consequences of the changes in the alcohol regime for Aboriginal people.

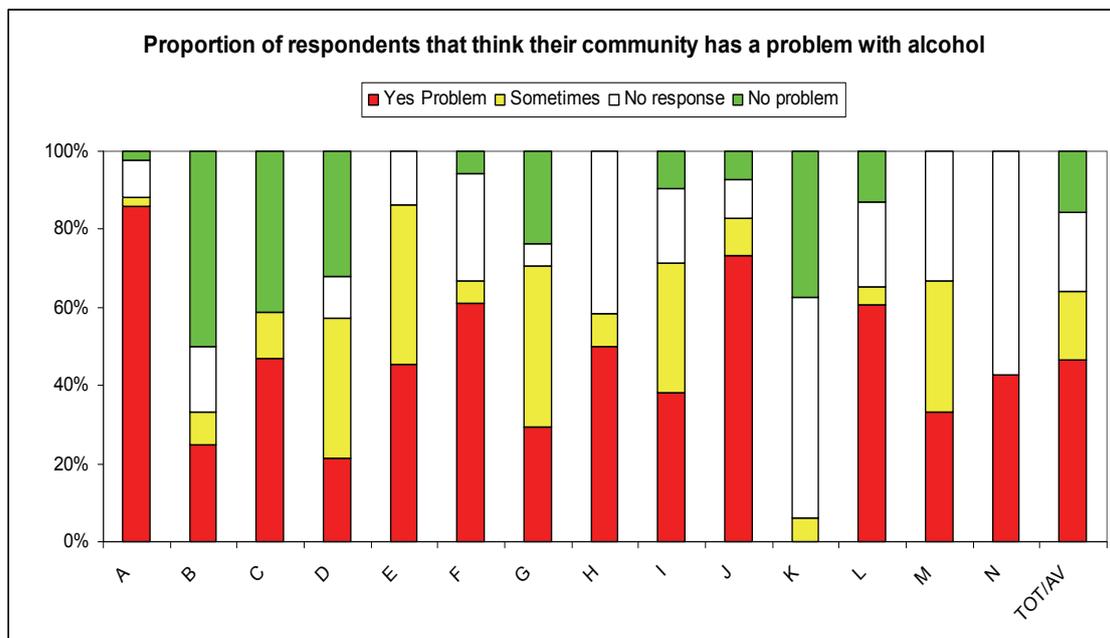


Figure 59: Percentage of respondents that considers alcohol is a problem in their community

Community	Before changes to the NT Liquor Act	After changes to the NT Liquor Act/Taskforce Themis	Current Alcohol problems
A	Dry; border just outside town, problem with drunks in the community.	Border much further away; no blue sign so people not sure where border is. Police doing some enforcement.	Less alcohol in the community; many drinking camps without water; problem with drink driving.
B	Dry; some alcohol; people would fly into Darwin to binge drink.	Largely unchanged; kava banned	One way flights to Darwin to binge drink, often get in trouble with law, no money to fly back home; hard to get back to court. Some homebrew.
C	Local alcohol ban. People went to nearby town, had to book room/campsite to be allowed to drink, seen as a 'tax' on locals.	Laws unchanged, more police enforcement of alcohol laws.	Less grog-running due to police presence, less grog and associated problems in the community. Problem of black 'drinking tax' unchanged.
D	Club; takeaway on Sunday; regional alcohol liaison committee; regional bans	Reductions in club hours, reduction to mid-strength, no takeaways. End of regional cooperation.	Increase in sly grog and people going elsewhere to drink. Less fighting in the community
E	Local alcohol ban. People travel long distances to regional capital to drink, often get into trouble with police, problems getting home.	Border moved further away.	Largely unchanged, likely some decrease in alcohol with police presence.
F	Dry community; people drank near the community, generally bought takeaway from hotel some distance away.	Border moved further away.	Active police presence has reduced availability of alcohol. Drinking camp relatively safe. People travel to regional centre on weekends.
G	Dry community; people would get takeaway from roadhouse or regional centre to drink at drinking camp outside town	Border moved much further away	Reduction in alcohol and crime with police presence. Drinking camps much further away; more trips to regional town to drink
H	Dry community; people would fly to regional centres to drink.	Unchanged.	Increase in smuggling and homebrew with continuing increases in crime. Binge-drinking trips still occurring with associated criminalization.

I	Dry community; people would travel to drink and come back sober.	Unchanged; more enforcement with police presence.	Reduced local alcohol with proactive policing with trust and cooperation of community. Binge-drinking trips continuing.
J	Dry community; takeaway bought from local roadhouse and drunk just outside community; sly grog in the community.	Regime unchanged. Local police active on grog issues.	Big improvement in alcohol and related problems. Sly grog still continuing though rarer.
K	Wet community; few problems; responsible drinking. Alcohol brought in from regional centre long distance away.	Now dry; border several hundred kilometers away.	People traveling long distances to drink at drinking camps at border or drinking in regional town with same issues as elsewhere. Alcohol never a problem for the community and they want a permit.
L	Dry community, generally obeyed by community	Border moved further away. Police relatively inactive.	Likely some improvement in alcohol. Drinking areas further away; no water or shade; significant health risk.
M	Dry community; people would bring alcohol in and drink outside community or travel to neighbouring Aboriginal communities to drink or purchase alcohol.	Border now very much further away. Kava banned. Police relatively inactive.	Likely degree of improvement in alcohol-related problems. People traveling to drink, often by plane with same issues as elsewhere (increased criminalization etc)
N	Dry community; people would bring alcohol back from regional centre to drink in drinking camps or travel to regional centre	Border further away; kava banned.	Some improvement in local alcohol-related issues, never a big problem. People traveling to regional centre to drink with same issues as elsewhere with this binge-drinking behaviour.

Community Opinion

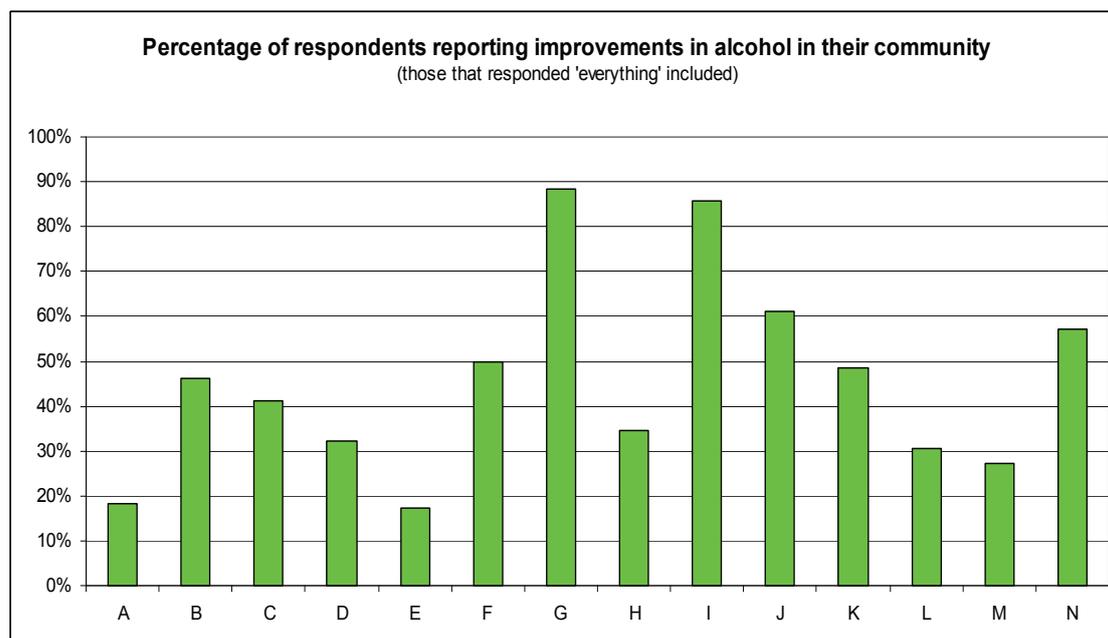


Figure 60: Percentage of respondents reporting improvements in alcohol in their community since the police presence

Given that the alcohol bans within communities were initiated by the communities themselves, and have been in place for some time, there were not large numbers of complaints regarding these existing bans within the community. Although there were range of views within the communities, the majority of people appeared to welcome or at least accept police enforcing the law within communities. People in general appeared to accept searching cars for alcohol as legitimate (but not unfair confiscation of alcohol). People acknowledged how the police presence has reduced drinking locally, for example, “Before police came there was a lot of grog and fighting. They just go to the town now to drink”. In a number of communities there were calls, however, for people to be able to drink responsibly, with a number of people raising both the additional problems that have come with the new regime, with others also calling for ways for local people to drink responsibly (people can currently get permits to drink at home but, without access to data on actual numbers of permits granted, there appeared not to be a wide uptake of this). It is worth noting that whilst there is acceptance of the communities themselves being dry, this is very different from attempted enforced teetotalism of an entire race, and people who talked about respecting alcohol bans often also talked about how they enjoy going to drink in town or elsewhere on certain occasions.

Changes in drinking behaviours

Along with the decreases in local alcohol consumption within communities due to the increased police presence, many people involved in the research discussed the increases in unsafe drinking behaviours as a result of the increase in restricted areas and the introduction of public restricted areas in most towns. The following section discusses the unsafe practices mentioned by participants in the research, along with indications of whether or not they have increased subsequent to the NTER and a permanent police presence.

Drinking Camps. Drinking camps have existed under the regime prior to the NTER, and emerged in response to previous dry area declarations by communities. They can be considered an Indigenous method of regulating consumption of alcohol. What is significant about the NTER is that these drinking camps have moved from just outside or a few kilometres outside the communities to often tens or even hundreds of kilometres from the community. These drinking camps generally lack water, shade and are necessarily next to public roads. People using these camps are at high risk of having serious health-related consequences and being involved in accidents with motor vehicles. Because drinking camps are now further away from communities, people generally cannot simply walk home after drinking, and may have to rely on a lift from others or driving intoxicated, or else their walk home is greatly extended. Where there were formerly several drinking camps outside each community, now there is often one common drinking camp for several communities at the boundary to Aboriginal land, with possibilities for increased conflict between family groups.

The distance of these drinking camps from the community is of concern to members of the community, particularly night patrols who are charged with looking after community safety:

Boundary is far out, Night Patrol can't look after it. Throwing a lot of rubbish out on the cattle station. So far out, if someone is visiting, drinking that far out, something happens, they don't take their medicine, they die, they we're gonna get payback, Aboriginal law if someone dies, can cause a lot of trouble. Devil man. We're frightened for ourself. Boundary too far away. Shire won't let Night Patrol drive outside town boundary to where police may have confiscated keys of a car with grog, but we can't pick them up. They have to walk a long way, maybe wife, child, boundary is so far.

Others highlight that the drinking camps are where a lot of the violence or trouble occurs in the community; yet a number of people were concerned the police did not regularly go there as part of their patrol. It is also worth mentioning that other people in certain places where the boundary is closer or unchanged since the NTER emphasized the safety of these places compared to drinking in the nearest regional town; "They [the police] told me to drink in town, not at the boundary, but we're allowed to drink out there. We've got some waterhole there, with kangaroo tail there, it's safe." The increase in drinking at these drinking camps as well as their 'extreme risk' to people using them and the fact that they are 'highly unsafe' is consistent with other surveys and investigations into the impacts of the NTER, particularly Smith and Claire (2008; quotes come from their findings), who have also stressed the need to have safer places to drink that can be monitored by the police. They call for a club with appropriate restrictions as a better alternative.

Grog-running - The prevalence of this was mentioned by a number of participants in the survey, although it was not clear whether this had gotten worse or improved as a result of the NTER. It was seen as negative by respondents who discussed alternatives, for example:

Going to [the regional town], loading up with grog, that's the main thing killing our people. People need to be taught to drink in moderation. If people are spending most of their money on grog, then at least that money should go back to the community.

Along with genuine grog-running there were also a number of complaints about police taking alcohol off people who never intended to bring it into the community

Homebrew – A number of northern communities reported this as a problem, and in Community H it was seen as an increasing problem by a number of people, where it is sometimes known as ‘yees’ for yeast; police are now searching houses for this. It is interesting to note the number of homebrew advertisements now appearing on Northern Territory television in this context.

Drink-driving - This was seen as one of the most common problems by respondents to the survey. The problem has been exacerbated by the increased distance to the boundary since the NTER. Drink-driving is not mainly an Aboriginal-specific issue, and appears to be common due to a lack of alternative means of transportation in bush areas (see the following section on transportation). In a number of places, people believed that the police also drunk-drove. While this does appear to ‘set a bad example’, at the same time, it highlights the necessity of alternative means of transport within and between Aboriginal communities.

Binge Drinking/sly grog – because of the increased risk of punishment of people caught drinking in public places, and because of the increase in public restricted areas, people are recording an increase in binge drinking within houses and other private places which are less visible to police. In this context of ‘sly grog’, people appear to be drinking as fast as possible, before the police catch them. Some people believe that, “the system teaches people how to binge drink. They should regulate alcohol – have an alcohol list. Prohibition doesn’t work.” Drinking within houses was seen as less preferable than people drinking in specific areas, like drinking camps, where they were reasonably safe. Drinking within houses was concerned to some people because of the close proximity of the drinker to more vulnerable people – women and children – who were not drinking. Even where this home drinking is legal where the person has a permit, people may drink the alcohol quickly to avoid demand-sharing pressures (see Sutton (2009) for more on this), having a similar effect to prohibition in increased consumption within a short period. Thus binge drinking at home may still be promoted by cultural factors even where it is promoted by a fear of detection stemming from the illegality of the behaviour. As one non-Aboriginal service provider put it:

What sank the whole thing was issuing permits so people could drink at home; it undid everything we had done. The convention [before] was that people didn’t drink take-away at home, take away was on Sundays for people going fishing.

In this context, any form of take-away may be less preferable than drinking in a licenced establishment where consumption may be regulated, water, shade and security services are available, and bans may be used as a way of enforcing good behaviour.

Binge Drinking Trips – at the same time as sly binge drinking in restricted areas has likely increased, although people were not specifically asked about it, a number of people reported the problems with some people going on binge drinking trips into town. Although the communities are often popularly seen as the centres of illegal practices (Hughes (2007), with her description of what she erroneously refers to as ‘homelands’ being the classic example), Aboriginal people, by contrast, often appeared to see remote communities as more safe and with harbouring problems than town areas. Much of

Aboriginal people's contact with the justice system occurs in town rather than remote settings, where demand from mainstream populations and local community bye-laws 'push' police to use punitive measures of dealing with a problem rather than alternative problem-resolution methods (see part 3 above for more about why this occurs). Much of the more serious crime also occurs in a town setting. People reported concern about community members flying or driving long distances into towns, where people drank large amounts, and were believed to be getting into trouble with other Aboriginal people there, or with the police. For example:

We don't want people going into town, getting stranded there, killed there, better they bring it back to home and drink it in their house, we got police stationed here. Drink in moderation, socially...having a good manner for the community.

Other surveys showing impacts of the NTER e.g. Smith and Claire (2008), also highlighted the increase in drinking in towns and the increase in people going in to town to drink. Often people did not have the money or means to return to their communities; they were 'stranded' until they could get a lift. If people were able to return home, then there may be a lack of money to return to court in the regional centre if they had received a summons for an offence committed whilst they were in town.

There are some indications that there has been a movement of people into towns as a consequence of NTER measures, although this is not conclusive (see Taylor and Carson (2009) for an alternative view). Related to the binge drinking trips above are more long-term stops in regional centres, with accompanying repeated encounters with the law. People were concerned about how people were not carrying out their family responsibilities, e.g.

She's in town drinking around. Stopping at [a] town camp. With a man, some man. I want police to pick her up and take her back. Stop living in town. She should stay with community, look after kids.

People also discussed the financial implications of widespread confiscation of alcohol when people were not intending to drink it in a restricted area, e.g. "They are always taking our grog, wasting our money, out at [place name]." For people with small incomes, alcohol represented a significant expenditure; in addition, the confiscation of cars was seen as serious where people are dependent on private vehicles for transport and mobility. In one community, people could drink in a nearby town provided they bought a campsite or hotel room – this then became an additional tax on those wanting to drink which brought increased incomes for these businesses whilst reducing the incomes of those who wanted to drink.

In one region, the NTER had brought an end to a system which regulated the consumption of alcohol and appeared to provide incentives for responsible drinking. This system was developed with the support and ownership of local people, and worked on a regional basis. As one service provider explained:

The community used to have a rule that people wouldn't drink at home. There used to be a regional meeting with TOs from [the various communities in the region], CEOs and [community] representatives, club mangers, met regularly to discuss issues around drinking, common issues, every month. There were regional

bans – people banned from one club couldn't drink elsewhere. At the end of the ban period, people had to from the committee, explain how they had changed. Sometimes a bit of shaming is good...I felt the system was working well.

Responsible drinking

Some people believed that the police presence and the NTER had brought about more responsible drinking practices; "Have police here has made people more responsible. More responsible drinkers. People are caring for their welfare more." At the same time, there has been a maintenance in some places and an increase in others of unsafe drinking practices. The increase in distances to highly unsafe drinking camps and the lack of safe, legal places to drink in moderation is of particular concern. Binge drinking and sly grog, either in communities after grog-running, or as part of binge-drinking trips to town, appears to have increased, though it is unclear to what extent without further research. Changes to legislation regarding alcohol appears to have led to an increase in unsafe practices.

From a number of communities came a call for pathways to responsible drinking. A number of people believed that their communities should now have clubs:

Now we have police living here full time, we don't know how many are good drinkers and how many are bad drinkers. If we have a club with a permit, no take away, we could monitor from there, know who's not eligible for permit, we could analyse from there, maybe start with light beer, then medium. Look at [another community in the region], people still work, they go to [a nearby town] to drink, it's controlled with strict permit. It's about time we learned.

And:

We want a social club next to the station. If people can have a beer there shouldn't be any grog running. People like to have a beer after work. The money from the social club can go to our kids. Like in Kalkaringi, people get bans if they misbehave. If people can have a beer after work they will work, rather than just waiting for Centrelink money and then driving into town.

In this context, it is interesting to note that the community with the lowest levels of perceived crime in the research had a club, though this club was some distance from the community. This club had limits on the strength of alcohol served and on opening hours. These limits were increased as part of the NTER and the increase in limits from this club was seen as welcome by a number of community members. The operation of the club was also supported by strong local Indigenous leadership. Some participants in the research believe that drinking should occur at a place at a distance from non-drinkers and those at risk of alcohol-fuelled violence.

The development of regional alcohol management plans was not mentioned at any time by any participant in the research and it is unclear the extent to which they exist and are functional. Consideration is likely to be necessary in these plans of providing safe places for people to drink, or even better, safe places for people to drink in a responsible manner. Police presence and action on reducing the availability of alcohol within

Aboriginal communities appears to have been widely welcomed. However, the NT Liquor Act was designed to allow police and inspectors to enforce community-requested alcohol bans within small areas; it was never intended to apply to the majority of land in the NT. It has become a ‘monster’ in which police have extraordinary powers of search and confiscation across the Territory generally, for crimes that have not yet been committed, and may never have intended to be committed, these searches often lead to prosecution for non-alcohol related offences. Furthermore, people cannot complain about racially-targeted practices because of the suspension of the RDA.

The NTRER Act appears to have also undone functioning community-owned systems to regulate alcohol consumption where they existed. Ultimately it needs to be easier for people to drink in a responsible and safe manner than to drink in an unsafe way. Whilst each community is likely to be different in terms of what underpins safe and responsible drinking, those in the community concerned with unsafe alcohol consumption should be supported to develop mechanisms to both reduce unsafe consumption and the effects of alcohol on the community and to promote responsible rather than irresponsible drinking; this will involve community ownership of the local alcohol regime, and in some cases, may not be a ‘tightening’ of the local alcohol regime, but may also be a ‘loosening’ of it.

MOTOR VEHICLES AND CRIMINALISATION

The pervasiveness of offending on Traffic Act-related matters

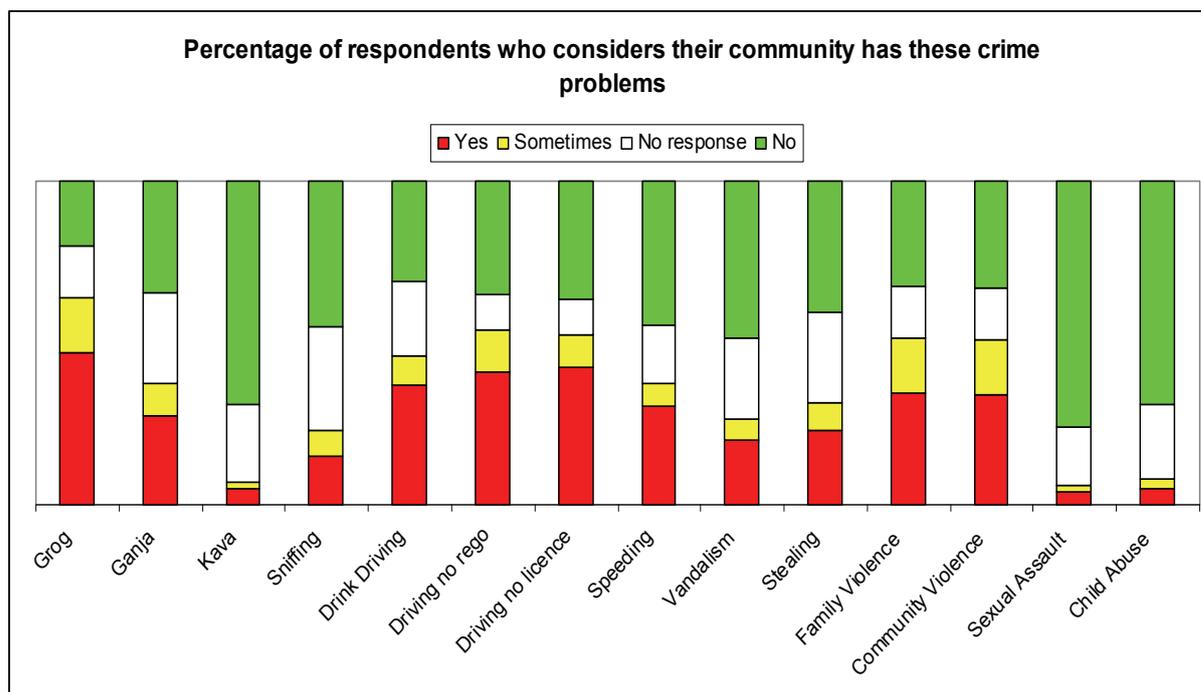


Figure 61: Percentage of respondents that considers their community has these problems, all communities. Figure 61 shows the average perceived crime rates across all the communities in the research. Bearing in mind that different communities had different crime problems, traffic related offences (in the survey, drink driving, driving unlicensed, driving unregistered, and speeding) appeared the most pervasive – that is, they were reported as significant problems in all communities. In addition, traffic offences appeared the most common problems in communities apart from alcohol, according to people’s responses.

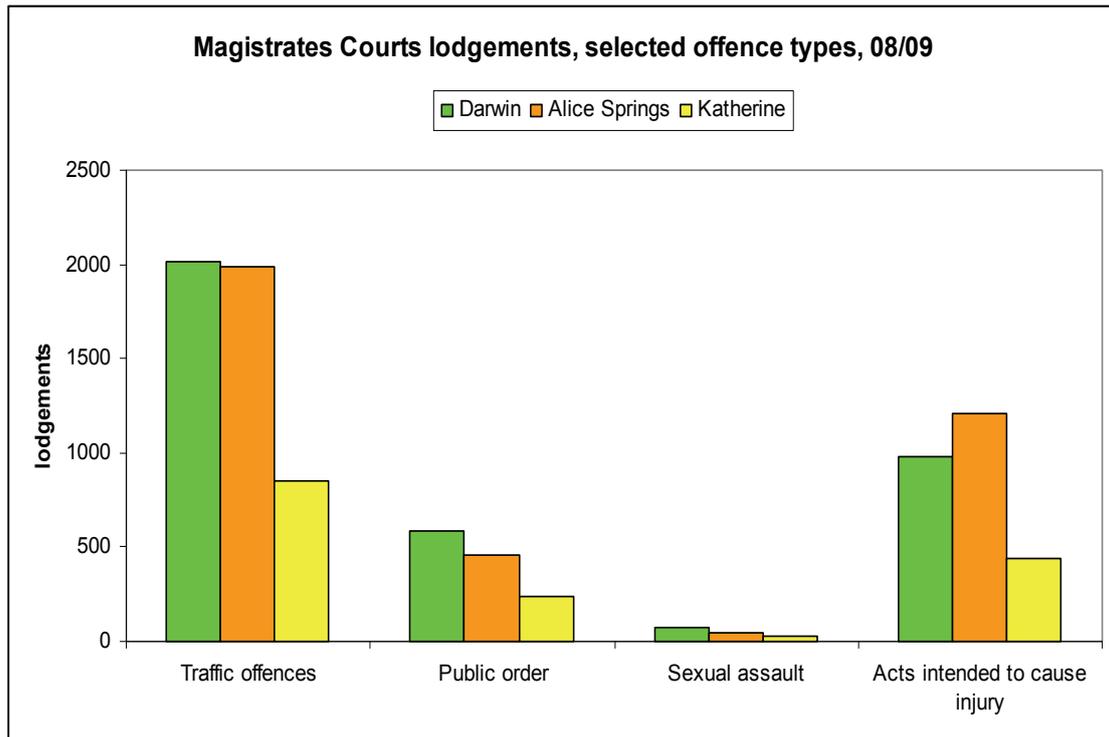


Figure 62: Magistrates Court lodgements (includes bush courts), selected offences 2008/09 (Adapted from data received from NT Department of Justice; 'Supreme and Magistrates Court Lodgements by Offence Type 0203-0809')

If we look at figures from the NT Department of Justice, we can see that traffic offences are the most common reasons that people go to court in the NT. Whilst sexual assault and child abuse within Aboriginal communities receives the most attention from the media and from government programs, it is the lower level-type offending that is both the most pervasive and the most responsible for criminalization of Aboriginal people. The everyday problems that police deal with the most and that mar community life in some places are less glamorous. Action to reduce criminalization of Aboriginal people is likely to be most effective if concentrated on the most pervasive (i.e. the most common) offences.

The 'overdetermination' of traffic offences

If we compare police activity in Taskforce Themis with perceived crime levels and perceived improvements in crime we notice some interesting things. There has been significant police activity in the area of traffic offences. As a public crime, policing it and uncovering offences, is relatively 'easy'; it is also used by the police as a way of monitoring who is present in a community. A key monitoring statistic for the police is the number of people who are breathalysed by a police station. Traffic matters are sometimes seen as evidence for 'overpolicing' in Aboriginal communities, but at the same time, the research uncovered significant use of police discretion via the use of warnings for people driving unlicensed or unregistered in many of the communities. Whilst it may be the largest single reason Aboriginal people are going to court, at the same time, the scale of offending is likely to be greater still.

Policing it has had a number of unintended impacts on remote communities. Where people are unable to drive unregistered cars, this has had an impact on cultural and

subsistence activities – people in some places reported they no longer go hunting to collect food and bush medicines. As one participant living on an outstation put it:

We're always getting booked. He charges us big money. This place is bush but we can't go for grocery, hunting. We should be allowed to drive unregistered locally. I've got my old Toyota, if he sees me he'll still book me. Even rifle we can't use them. Get that boomerang, spear and woomera back I suppose. Can't even drive my truck around to round up horses they still pull you over. If licence has just run out, we can't renew it, gotta go back to training. Otherwise you go back to L-plate. Really hard that policeman at [nearby community]. Can't go to [other communities], the policeman is everywhere, they pull you over.

Given the amount of police activity in the area of traffic offences, it is important to note that the perceived frequency of traffic offences has improved less than a number of other crimes, and each of these offences still perceived to be the most widespread problem in communities after alcohol. This indicates that there are strong drivers of offending that continue to act in spite of significant police activity. Police activity has had limited effect in driving down these problems. In this way, like alcohol, we can argue that traffic offences are 'overdetermined' (to borrow a term from Althusser). Unlike alcohol however, the NTER legislation has not changed the legality or illegality of certain practices with respect to traffic offences. Like alcohol however, it may be the case that the law, in this case the NT Interpretation Act, specifically increases the criminalization of Aboriginal people as compared to non-Aboriginal people by rendered illegal driving without a licence or without registration on 'remote' Aboriginal land off the main roads. Participants reported that others have been 'booked in the middle of nowhere'. See the complaints section for more on this. Cuneen (2001b, p44) stresses the drivers of motor vehicle-related offending:

If we consider the comparatively large number of motor vehicle registration and licence offences for which Aboriginal people are imprisoned, we might consider the complex interaction of environmental considerations [living in remote areas, dependence on motor cars], the effects of unemployment and poverty, and the extent of discriminatory policing practices.

Whilst some traffic offences are sometimes relatively minor in terms of consequences, for example, speeding, relatively minor offences can often lead to imprisonment if people are unable to get to a distant court, and a warrant is put out for their arrest. The distance to court from Themis communities came up as a major issue in some places. Traffic offences can also attract tough sentences; the penalty for driving whilst disqualified (possibly relatively common) is 12 months imprisonment. Where the consequences are financial, people may have difficulty paying. Possessing a licence is also a prerequisite for many jobs and people were concerned that people who had their licence taken away were unable to obtain employment, for example; "Big issue is a lot of young people looking for jobs. They need driver's licence for them. what about a daylight licence?".

Drink driving courses, a prerequisite for obtaining a new licence in certain circumstances, were rarely, if ever, carried out in communities visited, and there were a number of calls from participants for them to be run locally. There were also calls for education on traffic offences. The Townsville Submission (Anon, 2007) by Aboriginal

organisations, including Legal Aid, to the inquiry into policing in Aboriginal communities in Queensland, also discusses the issues regarding traffic offences and their relationship with Indigenous criminalization in detail and is an important reference in this context, until further research is carried out in this area.

As discussed, one of the most valuable services of the police in the research was the issuing of driving licences and car registration. Many stations, however, did not do this, partly due to the very high turnover of police. In the absence of a means for to get a licence and get registered without driving into a regional centre, and in the context of poor literacy and English, obtaining these items often proves highly problematic. Even learning to drive itself is difficult in places without professional instructors, and were few people hold a valid licence. Whereas on a cattle station, people may learn to drive on an unregistered car and starting at a relatively young age, Aboriginal people, despite owning remote land, are unable to, at least partly due to the above-mentioned section of the NT Interpretation Act. Compounding these difficulties is the anecdotal presence of 'carpet-baggers' who sell unregistered vehicles to Aboriginal people; often these are vehicles which require significant amount of work to be registration, the cost of which may then be beyond the means of local people. Furthermore, maintaining a vehicle to roadworthy standards when roads are in very poor condition is problematic, and the difficulties may be added to by high levels of use of individual vehicles due to cultural, demand-sharing factors (Musharbash, 2009).

A key factor in this is that lack of alternative means of transport for people living in their communities; people may have to drive unregistered or unlicensed simply to obtain food or visit the clinic:

We sick people would like police to overlook sick people driving from home to medical and shop to drive unregistered car. if drive outside of community they book us. We had a policeman who let us drive for food and medical and warned us about driving outside of community. give us sick people a bit of space.

Others pointed out how there were no cars owned by people were they lived. They explained that:

We need vehicle to go shop run, on mail run, if someone get sick, take them to clinic. We can't get a lift to work in [the service centre], have to walk 5km there 5km back.

Now that the boundary drinking camp is either a very long walking distance or even further away, people complained that they were unable to get back from there; night patrol could not give them a lift. There are some forms of quasi-public transport operating in communities; in some places, night patrol gives people a lift home; its role in filling the gap in local transport services should not be underestimated, whether officially sanctioned or not. At least one community had some form of bus that drove around within the communities; a few of the communities had some form of regional bus service operating a few times a week. A number of service providers had their own transport to do certain things, for example, take people to school, to and from the clinic, to meetings, and to and from the airport. In general however, there is a lack of alternative means of transport for people and the provision of a means of transport would be greatly beneficial in driving down offending practices and Aboriginal criminalization; done properly, it may even be relatively cost neutral. Also worth mentioning is the role of better provision of

education and driver training in this context to bring down offending. Community B's police-run program to promote increased, safe bicycle use proved relatively effective and it is likely that it will also be effective elsewhere.

The high rates of criminalization of Aboriginal people for traffic offences, and the strong social determinants of offending in this area, are discussed in detail in the literature. Blagg (2008, p102) discusses '[i]nfringements of law that were essential and largely unavoidable given the realities of Aboriginal life on remote communities, where there is no public and very little private transport: driving with no licence and unroadworthy vehicles'. His project in the Kimberley region also reported police prosecution of people driving on non-gazetted roads. Langton (1992, p n/a) likewise talks about how most motor car offences for which Aboriginal people are arrested, particularly on Aboriginal land, would not be considered serious under, or even breaches of, Aboriginal Law, and would certainly not warrant imprisonment (Langton, 1992). As mentioned above Cuneen (2001b) also looks at these issues.

The Police Dilemma

The police to are aware of these issues, and are faced with having to decide whether to give warnings or prosecute. They have not only the dilemma of the importance of motor vehicles to obtain necessary items, but also between the safety of leaving people without water and a means of transport a long way from home, and the danger of allowing people to drive unroadworthy vehicles and then have an accident. Police highlighted this dilemma when being interviewed for the research:

Another fact I take in to account - an area which is a problem out there in those locations - is people using motor cars to, you know, that they still got two hundred kilometers to go to get home, and they are driving a motor car that is totally deemed unroadworthy. What do I do? Do I turn around and leave them on the side of the road and wait for the next car, or do I give them a ride at home, or if the car is still drivable reasonably safely, allow them to continue? So I had those choices.

The research showed that, although there was divergence in police practice on this issue, in general, police have been using their powers of discretion to issue warnings to people driving within communities. This is not the case everywhere. In one community people complained that the police were relatively strict on them, for example, "[they] drives around; if people are drunk she makes them walk back without any water." At the same time people acknowledged in this community that the police had been relatively pro-active in assisting people in the community to obtain their licence and register vehicles. By contrast, at another community, the police, while enforcing the Act, did not provide the same level of support. Where people were forced to leave cars some distance from the community, people reported that the cars were then damaged by others, representing a significant loss of a key and expensive asset:

I was pulled over at Larapinta Drive. I got locked up. I tried to leave the key for someone else to drive the care home but there was no-one because the other person I was with was locked up too. The car got burnt while I was in gaol. I had only bought the car three or four days ago.

The police are likely to welcome action by governments and shires to reduce offending in this area in particular.

SOURCES

- Anon (2007) 'Townsville Submission to the Inquiry into Policing in Indigenous Communities', Queensland.
- Australian Bureau of Statistics (ABS) (2008) 3238.0.55.001 - Experimental Estimates of Aboriginal and Torres Strait Islander Australians, Jun 2006, latest issue 19/08/2008, accessed at:
<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3238.0.55.001Jun%202006?OpenDocument>
- Australian Institute of Aboriginal and Torres Strait Islander Studies (n.d) *Guidelines for Ethical Research in Indigenous Studies*, accessed online at:
http://www.aiatsis.gov.au/data/assets/pdf_file/10534/GERIS_2007.pdf
- Aboriginal Resource Development Service (2008) 'An Absence of Mutual Respect: Bāyṅṅu Ḍayaṅṅu-ḍapmaranhamirr Rom ga Ḍorra' downloaded 21 October 2008 from:
<http://www.ards.com.au/print/LawBookletWeb.pdf>
- Altman, J.C., Biddle, N. and Hunter, B.H. (2008) 'How realistic are the prospects for 'Closing the gaps' in socioeconomic outcomes for Indigenous Australians?' CAEPR Discussion paper no. 287/2008
- Altman, J. and Hinkson, M. (2007) *Coercive Reconciliation: Stabilise, Normalise Exit Aboriginal Australia*, Arena Publications, Melbourne
- Anthony, T. and Chapman, R. (2008) 'Unresolved Tensions: Warlpiri Law, Police Powers and Land Rights' in *Indigenous Law Bulletin* 7(5) May 2008.
- Atkinson, J. (1991) 'Stinkin' Thinkin': Alcohol, Violence and Government Responses' in *Aboriginal Law Bulletin* 36(2), accessed 15/4/09 at:
<http://www.austlii.edu.au/au/journals/AboriginalLB/1991/36.html>
- Atkinson, J. (2002) *Trauma Trails, Recreating Song Lines: The transgenerational effects of trauma in Aboriginal Australia*, Spinifex Press, North Melbourne.
- Bayley, D.H. (1986) 'Community policing in Australia - An appraisal: Working paper', Report Series Number 35, Australasian Centre for Policing Research/National Police Research Unit.
- Behrendt, J. (1990) 'Royal Commission Inquiry into the Death of Clarence Alec Nean' in *Aboriginal Law Bulletin* 2(47),pg13.
- Bellach, P. (2008) 'Re: Police searches – culturally significant objects' pers. comm. email, between Peter Bellach, ARDS and Helen Wodak, NAAJA, 21 April 2008
- Bird, G. (1987) *The 'Civilizing mission': Race and the Construction of Crime*, Contemporary legal issues no4, Monash University.
- Blagg, H. (2005) 'A new way of doing justice business? Community justice mechanisms and sustainable governance in Western Australia', background paper 8, Law Reform Commission Western Australia,
www.lrc.justice.wa.gov.au/2publications/reports/ACL/BP/BP-08.pdf
- Blagg, H. (2008) *Crime, Aboriginality and the Decolonisation of Justice*, Hawkins Press, Sydney.
- Blagg, H. and Valuri, G (2003) *An overview of night patrol services in Australia*, Crime Prevention Branch, Attorney-General's Department.
- Bolger, A. (1991) *Aboriginal Women and Violence*, North Australia Research Unit, Darwin.
- Boney, N. (1995) 'Perceptions Of Police And Policing: A Review Of Public And Police Surveys', Australasian Centre for Policing Research/National Police Research Unit.

- Boney, N. and Packer, J. (1998) 'The Police Role Survey: A tool for comparing public and police perceptions of the police role', Report Series No. 126.1, Police Research Unit.
- Broadhurst, R. (2002) 'Crime and Indigenous People' in Graycar, A. and Grabosky, P. (eds.) *The Cambridge Handbook of Australian Criminology*, Cambridge University Press
- Canclini, N.G. (1995) *Hybrid Cultures: Strategies for Entering and Leaving Modernity*, University of Minnesota Press, Minneapolis.
- Central Land Council (2008a) *Reviewing the Northern Territory Emergency Response: Perspectives from six communities*
- Central Land Council (2008b) 'Police ignorance upsets community', media release downloaded 10/4/08 from www.clc.org.au/media/releases/2008/lajamanu.asp
- Commonwealth Attorney-General's Department (2008) Night Patrol Services in the Northern Territory: Operational Framework 1 July 2008 – 30 June 2009
- Commonwealth of Australia (2008) *Report of the NTER Review Board*, October 2008.
- Coleman, C. and Moynihan, J. (1996) *Understanding Crime Data: Haunted by the dark figure*, Open University Press, Buckingham (UK).
- Cultural and Indigenous Research Centre Australia (2008) *Community Feedback on the Northern Territory Emergency Response (NTER): A research report*, September 2008, FaHCSIA, accessed online at: http://www.fahcsia.gov.au/sa/indigenous/pubs/nter_reports/community_feedback/Documents/NTER_community_feedback_research_report_sep08.pdf
- Cunneen, C. (1998) *The Royal Commission into Aboriginal Deaths in Custody: An overview of its establishment, findings and outcomes*, ATSIC Press.
- Cunneen, C. (1999) *Zero Tolerance Policing: Implications for Indigenous People*, Paper prepared for the Law and Justice Section of the Aboriginal and Torres Strait Islander Commission.
- Cunneen, C. (2001a) *Conflict, Politics and Crime: Aboriginal Communities and the Police*, Allen and Unwin, Sydney.
- Cunneen, C. (2001b) *The Impact of Crime Prevention on Aboriginal Communities*, Law Faculty, University of Sydney.
- Cunneen, C. (2007) 'Justice Agreements, Strategic Plans and Indigenous/Police Relations' in *Indigenous Law Bulletin*, 6(28) June/July 2007, p19-21
- Cunneen, C. (2008a) 'Indigenous anger and the Criminogenic Effects of the Criminal Justice System' in Day, A., Nakata, M. and Howells, K. (eds.) *Anger and Indigenous Men*, Federation Press, Sydney.
- Cunneen, C. (2008b) 'Policing in Indigenous Communities' in Mitchell, M. and Casey, J. (eds.), 2007, *Police Leadership and Management*, Federation Press, accessed at <http://www.austlii.edu.au/au/journals/UNSWLRS/2008/25.html>
- Cunneen, C. and Allison, F. (2008) *Indigenous Justice Strategies: Analysis and Findings of the Current Policy Framework*, Summary. Research report for the Commonwealth Attorney Generals' Department.
- Delahunty, B. and Putt, J. (2006) 'The policing implications of cannabis, amphetamine & other illicit drug use in Aboriginal & Torres Strait Islander communities', Monograph Series No. 15, National Drug Law Enforcement Research Fund, Commonwealth of Australia

- Downing, Rev. J. (2002) 'Cross-culture education methods in community development education' in Walsh, F. and Mitchell, P. (eds) *Planning for Country: Cross-cultural approaches to decision making on Aboriginal Lands*, Jukurrpa Press, Alice Springs.
- Eades, D. (2000) 'I don't think it's an answer to the question: Silencing Aboriginal witnesses in court' in *Language in Society*, 29, p161-195
- FaHCSIA (2008a) 'Submission of Background Material to The Northern Territory Emergency Response Review Board' last modified 14/10/08, accessed 15/4/09 at: http://www.fahcsia.gov.au/nter/docs/reports/nter_review_submission/default.htm
- FaHCSIA (2008b) 'Compulsory income management to continue as key NTER measure' press release dated 23/10/2008 accessed 23/10/08 at: http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/nter_measure_23oct08.htm
- Feerick, C. (2004) 'Policing Indigenous Australians: Arrest as a means of oppression' in *Alternative Law Journal*, 29(4) August 2004, p188-193.
- Friere, P. (1970) *Pedagogy of the Oppressed*, Continuum Press
- Gondarra, Dj. (2008) unpublished speech made at the opening of Galiwin'ku police station, from Aboriginal Resource Development Services.
- Harding, R.W., Broadhurst, R., Ferrante, A. and Loh, N. (1995) *Aboriginal Contact with the Criminal Justice System and the Impact of the Royal Commission into Aboriginal Deaths in Custody*, Hawkins Press, Sydney.
- Herrington, V. (unkn) 'Doing research with the Police for dummies' accessed at: http://www.cjrn.unsw.edu.au/news_&_events/documents/Researching%20police%20for%20dummies.ppt
- Hogg, R. (2005) 'Policing the Rural Crisis' in *The Australian And New Zealand Journal Of Criminology*, 38(3) p340–360
- Homel, R., Lincoln, R. and Herd, B. (1999) 'Risk and Resilience: Crime and Violence in Aboriginal Communities' in *The Australian and New Zealand Journal of Criminology*, 32(2), p182-196.
- Hughes, H. (2007) *Lands of Shame: Aboriginal and Torres Strait Islander 'Homelands' in Transition*, Centre for Independent studies, Sydney.
- Human Rights and Equal Opportunities Commission (HREOC) (1991) *Racist Violence: Report of the National Inquiry into Racist Violence in Australia*, Australian Government Publishing Service, Canberra.
- Imlah, C. (1993) 'Developing Police Understandings of Aboriginal Issues' in McKillop, S. (ed.) *Aboriginal Justice Issues*, proceedings of a conference held 23-25 June 1992, Australian Institute of Criminology, Canberra.
- Johnston, E. (2001) *National Report, 5 vols*, Royal Commission into Aboriginal Deaths in Custody, AGPS, Canberra.
- Keen, I. (2004) *Aboriginal Economy and Society: Australia at the Threshold of Colonisation*, Oxford University Press, Melbourne.
- Kimm, J. (2004) *A Fatal Conjunction: Two Laws Two Cultures*, Federation Press, Melbourne.
- Langton, M. (1992) *Aborigines and policing: Aboriginal solutions from Northern Territory communities*, The Wentworth Lecture.

- Lea, T. (2008) *Bureaucrats and Bleeding Hearts: Indigenous Health in Northern Australia*, UNSW Press, Sydney.
- Long, S. and Memmott, P. (2007) 'Aboriginal mobility and the sustainability of communities: Case studies from north-west Queensland and eastern Northern Territory', Desert Knowledge CRC – Working Paper No5.
- Luke, G. and Cuneen, C. (1998) 'Sentencing Aboriginal People in the Northern Territory: A Statistical Analysis', North Australian Aboriginal Legal Aid.
- Maddison, S. (2009) *Black Politics: Inside the complexity of Aboriginal political culture*, Allen & Unwin, Sydney.
- Marchetti, A. and Daly, K. (2007) 'Indigenous Sentencing Courts: Towards a Theoretical And Jurisprudential Model' in *Sydney Law Review* (17), accessed online 15/4/09 at: <http://www.austlii.edu.au/au/journals/SydLRev/2007/17.html>
- Memmot, P., Stacy, R., Chambers, C. and Keys, C. (2001) *Violence in Indigenous Communities*, Report to Crime Prevention Branch of the Attorney-General's Department, National Crime Prevention Program, Commonwealth of Australia.
- Musharbash, Y. (2008) *Yuendumu Everyday: Intimacy, immediacy and mobility in a remote Aboriginal settlement*, Aboriginal Studies Press, Canberra.
- National Health and Medical Research Council (2007) *National Statement on Ethical Conduct in Human Research*, http://www.nhmrc.gov.au/PUBLICATIONS/ethics/2007_humans/contents.htm
- NAAJA (2008a) Submission to the Senate Standing Committee on Community Affairs regarding the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Emergency Response Consolidation) Bill, June 2008
- NAAJA (2008b) Submission by NAAJA to the Review Board of the Northern Territory Emergency Response, August 2008
- NAAJA and CAALAS (2008) Joint submission by the Central Australian Aboriginal Legal Aid Service and the North Australian Aboriginal Justice Agency to the Senate Select Committee on Regional and Remote Indigenous Communities, June 2008.
- National Indigenous Drug and Alcohol Committee (NIDAC) (2009) *Bridges and Barriers: Addressing Indigenous Incarceration and Health*, Australian National Council on Drugs, 2009, accessed Sep 09 at: http://www.nidac.org.au/publications/pdf/nidac_bridges_and_barriers.pdf
- NTER Review Board (2008) *Report of the NTER Review Board*, Commonwealth of Australia, October 2008, downloaded from: http://www.nterreview.gov.au/docs/report_nter_review/default.htm
- Northern Territory Government (2008b) *New Forensic Capability in Drug Fight*, Press release, dated 7th November 2008.
- Northern Territory Government (2008a) *Submission to the Northern Territory Emergency Response Review Board*, June 2008, downloaded 29/10/08 from: http://www.action.nt.gov.au/docs/NTER_Submission.pdf
- Northern Territory Office of Crime Prevention (2005) *Recidivism in the Northern Territory: Adult Prisoners Released in 2001-2002*.
- Northern Territory Police (2003) *Custody Manual*, dated 8 May 2003.
- Northern Territory Police (2008) *Business Plan 2008-2009*
- Northern Territory Police (2008) *Annual Report 2007-2008*

- O'Neil, S. and Bathgate, J. (1993) *Policing Strategies in Aboriginal and Non-English Speaking Background Communities in the Northern Territory, Final Report*, a community relations project, Northern Territory Police, Darwin.
- Phillpot, S. (2001) 'Understanding Whitefella Secret Cattle Business' in Baker, R., Davies, J. and Young, E. (eds) *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions*, OUP Melbourne.
- Pilbrow, J. and Satour, J. (2008) *Fair Transport – How do we get there?* Paper presented at the NTCOSS Conference, April 2008
- Police Federation of Australia (2008) *Review of the Northern Territory Emergency Response: PFA Submission*, August 2008 accessed 21 October 2008 at: http://www.pfa.org.au/files/uploads/SUBMISSION_to_NT_Review_Board_200808.pdf
- Punch, M. (1993) 'Observation and the police: the research perspective' in Hammersley, M. (ed.) *Social Research: Philosophy, Politics and Practice*, SAGE, London.
- Rowse, T. (1992) *Remote Possibilities: The Aboriginal Domain and the Administrative Imagination*, North Australia Research Unit, ANU, Darwin.
- Ryan, P. (2001) A model for social change: the Northern Territory's Aboriginal Law and Justice Strategy 1995-2001, Northern Territory Government.
- Ryan, P. (2004) 'Indigenous Community Engagement in Safety and Justice Issues: A Discussion Paper', NT Aboriginal Law and Justice Strategy, Northern Territory Government.
- Sansom, B. (2001) 'Irruptions of the Dreamings in Post-colonial Australia' in *Oceania* 72(1), September 2001
- Sarre, R. (1997) "Crime Prevention and Police" in P. O'Malley & A. Sutton (eds) *Crime Prevention in Australia: Issues in Policy & Research* Leichhardt: Federation Press
- Segrave, M. & Ratcliffe, J. (2004) *Community Policing: A descriptive overview*, Australian Institute of Criminology.
- Schwartz, M. (2007) 'Policing the Territory: A comment on the emergency response to Little Children are Sacred' in *Indigenous Law Bulletin* 6(30), September/October 2007 p9-10.
- Smith, C. and Jackson J. (2008) 'A Community-Based Review of the Northern Territory Emergency Response', August 2008, Institute of Advanced Study for Humanity, University of Newcastle.
- Smith, L.T. (2001) *Decolonizing Methodologies: Research and Indigenous Peoples*, Third edition, Zed Books, London.
- Smith, P. and Natalier, K. (2005) *Understanding Criminal Justice: Sociological Perspectives*, Sage Publications, London.
- Stavenhagen, R. (1993) 'Decolonizing Applied Social Sciences' in Hammersley, M. (ed.) *Social Research: Philosophy, Politics and Practice*, SAGE, London.
- Tangentyere Council Inc (2008) Submission to the Review Board of the Northern Territory Emergency Response, August 2008
- Tangentyere Council Patrollers, with Elek, C. (2007) 'Relhe Marre Tnyeneme, Community Patrols in Alice Springs: Keeping People Safe' in *Indigenous Law Bulletin* 6(30), September/October 2007 p24-6
- Taylor, A. and Carson, D. (2009) 'Indigenous mobility and the Northern Territory Emergency Response', *People and Place*, 17 (1) p29-38

- Thurman, Q., Zhao, J. & Giacomazzi, A. (2001) *Community Policing in a Community Era: An Introduction & Exploration* California: Roxbury Publishing Company
- Toohy P. (2008) 'Last Drinks: The impact of the Northern Territory Intervention' in *Quarterly Essay*, Issue 30, Schwartz Publishing
- Tyler (1998) 'Race, crime and region: The socio-spatial dynamics of Aboriginal offending' in the *Journal of Sociology* 34(2)
- Walker, J. and Forrester, S. (2002) *Tangentyere Remote Area Night Patrol*, Tangentyere Council, Northern Territory. Paper presented at the Crime Prevention Conference convened by the Australian Institute of Criminology and the Crime Prevention Branch, Commonwealth Attorney-General's Department and held in Sydney, 12-13 September 2002.
- Waquant, L. (2001) 'Deadly symbiosis: When ghetto and prison meet and mesh' in *Punishment and Society*, 3(1) p95-134.
- Weatherburn, D., Fitzgerald, J. and Hua, J. (2003) 'Reducing Aboriginal Over-representation in Prison' in *Australian Journal of Public Administration*, 62(3), p65-73.
- Wild, R. and Anderson, p. (2007) *Ampe Akelyernemane Meke Mekarle (Little Children are Sacred)*, report of the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse. Accessed at:
http://www.inquirysaac.nt.gov.au/pdf/bipacsa_final_report.pdf
- Wohling, M. (2001) 'Ngaparrtji Ngaparrtji Nintilpayi: Reciprocal Thinking in Natural Resource Management' in Baker R., Davies, J. and Young, E. (eds) *Working in Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions*, Oxford University Press.
- Worrall, A. (2000) 'What Works at One Arm Point: A Study in the Transportation of a Penal Concept' in *Probation Journal* (47) p243-249
- Westbury, N. and Dillon, M. (2006) 'The Institutional Determinants of Government Failure in Indigenous Affairs', unpublished article.

APPENDICES

Appendix A: Survey 1

Community experiences with the Police



We want to hear about your experiences with the police and what you think about the police.

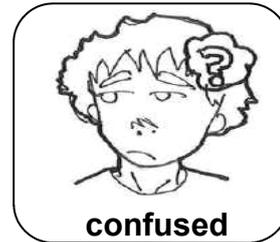


Central Australian Aboriginal Legal Aid Service



North Australian Aboriginal Justice Agency

1. How did you feel when the police first arrived?



2. Now the police have been here longer, how do you feel about the police?



3. If your feelings have changed, why have they changed?

4. What do you think the police spend most of their time doing?

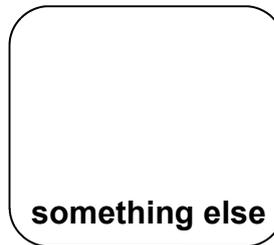
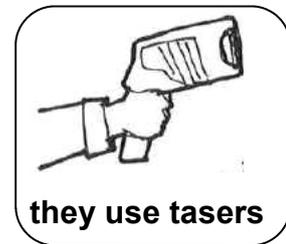
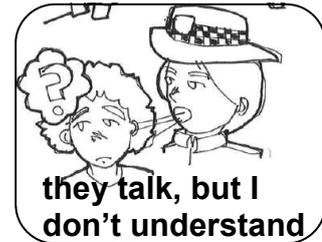
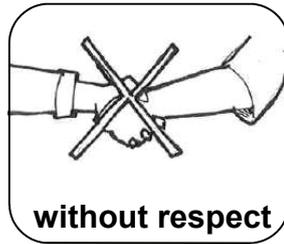
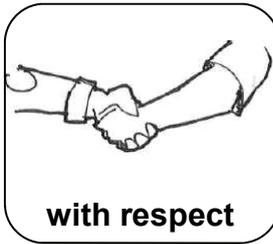
5. What do you think the job of the police is?

6. Why do you think the police have come to your community?

7. If you had a problem, how would you contact the police?

8. How do the police here treat people in the community?

(please mark all that apply)



9. Are there some things that happened that make you say that?

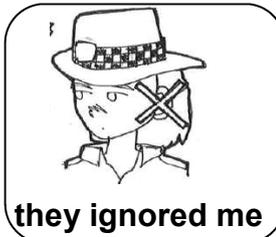
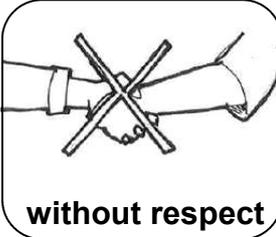
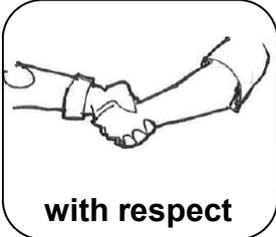
10. Have you ever tried to report a problem to the police?

YES

NO

11. If so, how did they treat you?

(please mark all that apply)



12. If you want to, please talk some more about your experiences...

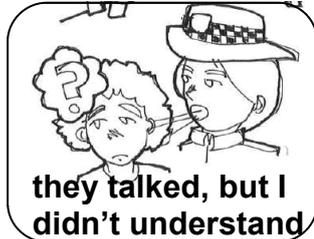
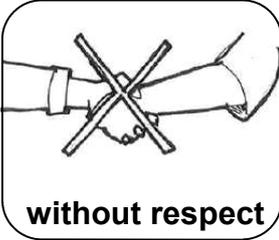
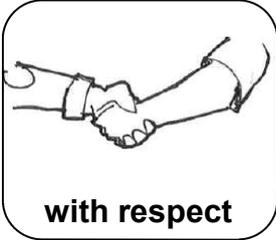
13. Have you ever been in trouble with the police?

YES

NO

14. If so, how did they treat you?

(please mark all that apply)



15. If you want to, please tell us a bit more about your experiences...

16. Please chose which statement is the most appropriate for each of the problems below.

Please write a,b or c in the boxes below.

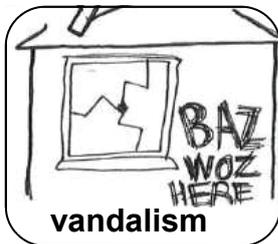
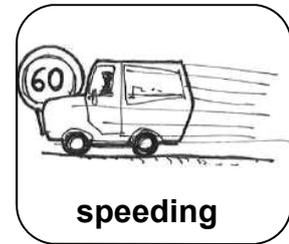
e.g.



a—This is a problem here

b—There is sometimes a problem with this here

c—There is no problem with this here



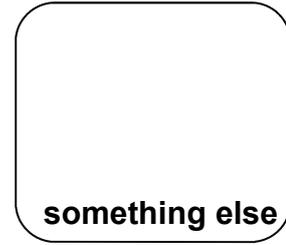
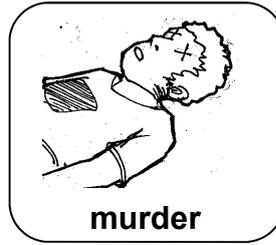
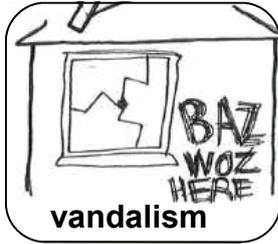
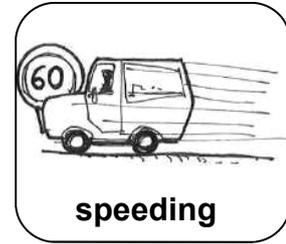
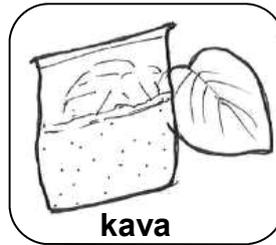
17. Please chose which statement is the most appropriate for each of the problems below.

Please write a,b or c in the boxes below.

a—This problem is getting better here since the police came.

b—This problem is the same as always

c—This problem is getting worse here even after the police came



18. If any of these problems are getting better or worse, why do you think they are they getting better or worse?

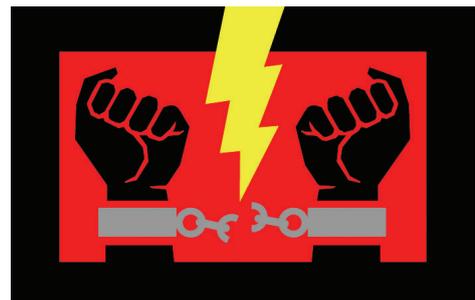
19. Is there anything else you want to talk about regarding the police in your community?

Appendix B: Survey 2

Community experiences with the Police



We want to hear about your experiences with the police and what you think about the police.



Central Australian Aboriginal Legal Aid Service



North Australian Aboriginal Justice Agency

3. What do you think about having police living in your community?



4. Why do you say that?

5. What do you think about what the police are doing here?



6. Why do you say that?

7. Have you ever talked with the police?

YES

NO

8. If yes, do you understand what they are saying?



Sometimes I understand them, sometimes I don't

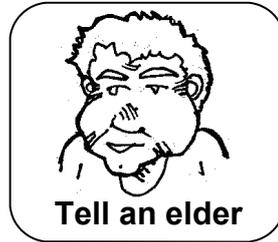


9. If you were a victim of crime, what would you do?



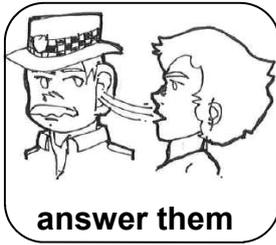
something else

10. If you saw a crime happening, what would you do?



something else

11. If the police came and asked you some questions about someone else in the community what would you do?



depends on what they are asking



12. Is it possible to talk to the police privately without other people finding out?

YES

NO

13. If you wouldn't talk to the police about a crime, why wouldn't you?

14. Have you ever tried to report a problem to the police?

YES

NO

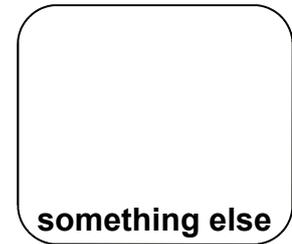
15. If so, what happened?



16. If you want to, please talk some more about what happened when you told the police about a crime.

17. What do you think the police usually do when they are working?

18. How do police deal with people who break the law?



19. Do you think the police listen to all sides?

YES

NO

20. Do you think the police treat everyone the same?

YES

NO

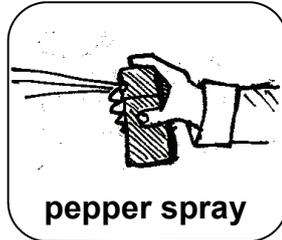
21. Have you ever been in trouble with the police?

YES

NO

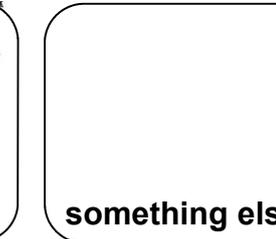
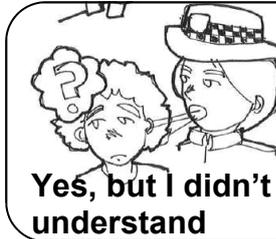
22. If so, how did they treat you?

(please mark all that apply)



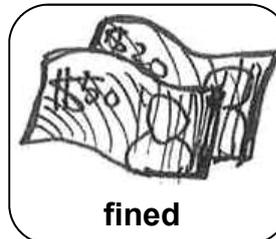
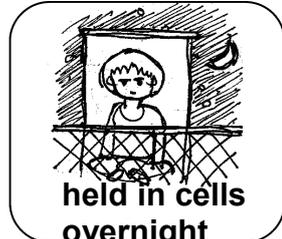
23. Did they explain to you what was happening

(please mark all that apply)

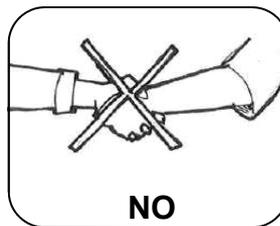
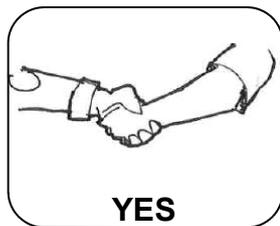


24. What happened in the end?

(please mark all that apply)



25. Do you think that the police respect Aboriginal Culture?



26. Why do you think this? Did something happen?

27. Do the police spend time getting to know people?

YES

NO

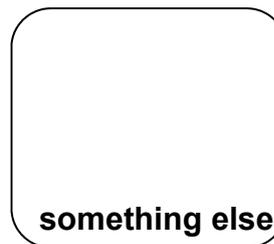
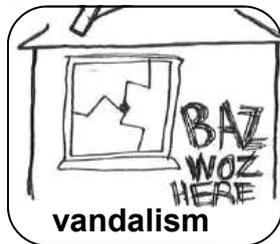
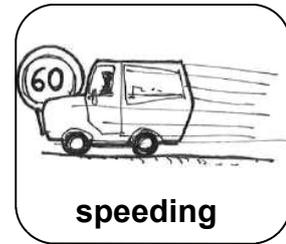
28. Are the police involved with kids or young people here? e.g. blue light disco, football training

YES

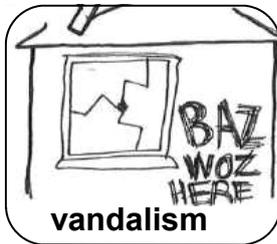
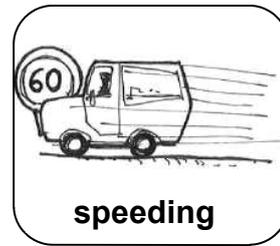
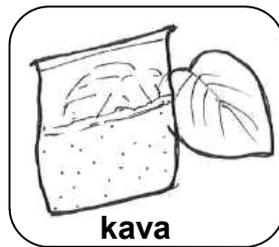
NO

29. If so, what sort of things have they been doing?

30. Now that the police are living here, which of these is still a regular problem?



31. Now that the police are living here, which of these is sometimes of a problem?

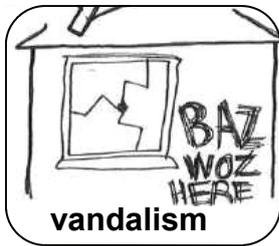
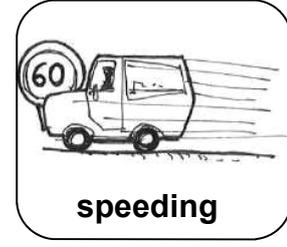
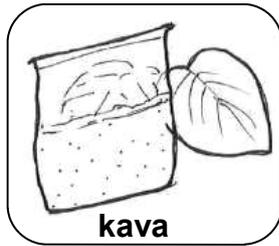


sexual assault



something else

32. Now that the police are living here, which of these is not a problem?

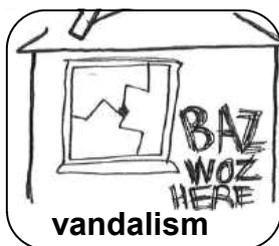
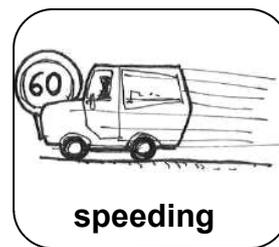
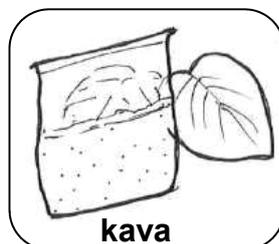


sexual assault



something else

33. Which problems have improved since the police came to live here?



sexual assault



something else

34. Is there anything that has gotten worse even after the police came to live here?

34. Do you have any other stories or opinions about the police you would like to share with us?