Experiences of Koori Youth of the Justice System in north-west Victoria

A research report by
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Field work and additional research by Ms Leshae Harris
Acknowledgments

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The interviews (and therefore the report itself) would not been possible without the research skills of Ms Leshae Harris, a member of the local Indigenous community. Finally we would like to thank the young people and also the Elders who gave their time to answer questions and to provide the voices that were crucial for this project.
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1. The Project Outline & Methodology

This project provides an overview of the current legal issues and experiences of Indigenous youth in a rural town in country Victoria (Robinvale) focusing on their experience of policing and experiences within the justice system. Through interviews with Koori (Indigenous) young people the project sought to provide their perspective on justice issues and how they felt they were treated by the different levels of the justice system. Since the interviews were conducted in the township the focus was very much upon the experiences of the young people in their first contact with police and their subsequent dealings with the justice system and consequently it did not seek to examine their perspective on the Corrections phase (juvenile detention), although a number of the young people interviewed indicated that they had experienced incarceration or juvenile detention.

The interviews were conducted using the questionnaire attached to the report as Appendix One by Leshae Harris, a member of the local Indigenous community. Ultimately there were twenty-one interviews conducted with a focus group of young people ranging in age from 14 to 23. Of the twenty-one interviews the gender break-down was 16 males and 5 females. In addition, interviews were conducted with some Elders and respected members of the community. This arose as a consequence of meetings held with the CEO of the Murray Valley Aboriginal Co-Operative (a post filled by three different people during the course of the project) and also Ms Angelika Fevaleaki (Juvenile Justice Worker) and Mr Rocky Sloan (Team Leader Integrated Family Services).

A number of factors influenced the framing of this project to learn of the experiences of the Koori youth in Robinvale in their dealings with the justice system. In researching how the Indigenous youth in Robinvale perceive their dealings with the justice system the research took as a starting point the previous work of Cunneen (1990) and Smith (1990). Their research concluded, based upon interview pools of 171 and 50 respectively, that there was a consistent pattern of physical and verbal abuse of Indigenous youth in their dealings with the police. In part the brief for this project was to establish whether young people in Robinvale considered that they were subjected to any such form of assault or attack. No mention was made of the findings of the earlier research to the interviewees.

The research project was also framed in direct response to issues raised in the report of the Victorian Indigenous Youth Advisory Council (VIYAC) from 2006 titled Young Aboriginal Victorians on Culture, Identity and Racism. The VIYAC report cited a report from the Secretariat of National Aboriginal and Islander Child Care (SNAICC) that commented upon the plethora of information and research relating to children and young people but
denounced the lack of research concerning Indigenous youth and young people. Taking that point further the VIYAC report reflected that there was “even less research relating to Indigenous young people on a state-wide or regional basis” (VIAYC, 2006: 32). This gap in the existing research into the justice issue as they relate to Koori youth in north-western Victoria was therefore the starting point for the research. While there is no doubt there are elements of the engagement with the justice system that are shared by Indigenous juveniles across the country there is also a clear need to differentiate the experience of different States (with different legislation) and also the different communities in the same State. By essentialising Indigenous youth in their experiences with the justice system as always being the same there is a very real danger that the unique and individual concerns of particular groups of Indigenous youth will be ignored. The variation in the nature of contact by Indigenous youth was also commented upon by the House of Representative Standing Committee on Aboriginal and Torres Strait Islander Affairs in its report into the high level of involvement of Indigenous youth and adults at every level of the criminal justice system. The report, titled Doing Time – Time for Doing, makes the observation that “the over-representation of Indigenous juveniles in the criminal justice system varies greatly according to state and territory, offence type and by the type of interaction (including being cautioned, charged or detained)” (2011, 11).

The Committee was disturbed to hear that not only do Indigenous juveniles and young adults continue to be over-represented in detention centres and prisons, but that levels of incarceration are increasing despite ongoing effort and funding in this area. It is shameful that in 2011 Indigenous people are more likely to be detained or imprisoned than at any other time since the 1991 Royal Commission into Aboriginal Deaths in Custody (Doing Time – Time for Doing, 2012, pp.36-7).

The same Committee concluded that “more work is needed to ensure that Indigenous youth are dealt with by the criminal justice system only as a last resort” (Doing Time – Time for Doing, 2011, p.204).
Corroborating the concerns expressed by the House of Representatives Committee is the objective of the Victorian State Government to achieve a reduction in the levels of Indigenous engagement with the justice system by 2031 (see text box at right). This undertaking was made as part of the Aboriginal Justice Agreement Phase 3 (AJA3) that is an agreement between the Victorian Government and the key Victorian Indigenous organisations to address a range of issues and areas of specific Indigenous disadvantage. Unsurprisingly the AJA Phase 3 recognises the importance of addressing the extent of over-representation of young Aboriginal people in the justice system in the state of Victoria.

The extent of the over-representation of Indigenous young people in the justice sector is detailed at length in the Victorian Government’s 2012 report into Aboriginal Affairs. The data reveals that Indigenous youth are over-represented in comparison with their non-Indigenous counterparts in the figures for being processed for police, being the subject of a community based order and being in detention.

### Distinct alleged young offenders (10-17 years) processed by police, per 1000 population, Victoria

<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>102.6</td>
<td>105.5</td>
<td>111.8</td>
<td>107.5</td>
<td>100.3</td>
<td>91.1</td>
<td>93.6</td>
</tr>
<tr>
<td>non-Aboriginal</td>
<td>19.6</td>
<td>22.2</td>
<td>22.2</td>
<td>22.5</td>
<td>21.4</td>
<td>17.6</td>
<td>14.6</td>
</tr>
<tr>
<td>Over-representation rate</td>
<td>5.2</td>
<td>4.8</td>
<td>5.0</td>
<td>4.8</td>
<td>4.7</td>
<td>5.2</td>
<td>6.4</td>
</tr>
</tbody>
</table>

Source: Victorian Government, Aboriginal Affairs Report 2012, p.57
Rate of Aboriginal young people under youth justice supervision

In 2011-12, 19.7 per 1000 Aboriginal young people aged 10-17 years were on a community based supervision order compared to 1.48 per 1000 non-Aboriginal young people. Overall, the 2011-12 data shows that young Aboriginal people are 13.3 times more likely to be on a community based service order and 17.4 times more likely to be in detention than non-Aboriginal young people.


Rate of over-representation of Aboriginal young people processed by police

In 2011-12, 93.6 per 1000 Aboriginal young people (aged 10-17 years) were processed by police (i.e. caution, arrest, summons or warrant) compared to 14.6 per 1000 non-Aboriginal young people. This represents an over-representation rate of 6.4 times the non-Aboriginal rate in 2011-12.

2. Why Robinvale? The Local Area

The township of Robinvale is located in the Sunraysia region of Victoria, some 470 kilometres north-west of Melbourne. The township is located in an area with mixed grape growing, wheat farming and, more recently, large plantings of vegetables and almond plantations. The township’s population is approximately 2300. Apart from the Anglo-Australian settlers who moved to the area when soldier settlement schemes were established, the town’s population also has sizeable communities of Greek and Italian descent who came to the area during the 1950s. In more recent times relatively large communities of Tongan and Vietnamese immigrants have settled in the town, largely as a result of the employment opportunities on the grape blocks and vegetable farms. The Indigenous community in the township of Robinvale is also one of the largest in the State and is certainly significant when considered as a percentage of the total local population, a fact that is illustrated in the table below drawn from a 2006 VCOSS Report.

Local Government Areas with the highest percentage of Indigenous people

<table>
<thead>
<tr>
<th>Local Government Area</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campaspe</td>
<td>1.77%</td>
</tr>
<tr>
<td>East Gippsland</td>
<td>2.87%</td>
</tr>
<tr>
<td>Gannawarra</td>
<td>1.15%</td>
</tr>
<tr>
<td>Glenelg</td>
<td>1.35%</td>
</tr>
<tr>
<td>Greater Shepparton</td>
<td>2.75%</td>
</tr>
<tr>
<td>Horsham</td>
<td>1.08%</td>
</tr>
<tr>
<td>LaTrobe</td>
<td>1.20%</td>
</tr>
<tr>
<td>Mildura</td>
<td>2.40%</td>
</tr>
<tr>
<td>Robinvale</td>
<td>9.0%</td>
</tr>
<tr>
<td>Swan Hill</td>
<td>4.37%</td>
</tr>
<tr>
<td>Warrnambool</td>
<td>1.09%</td>
</tr>
</tbody>
</table>

Source: VCOSS, Victoria’s Indigenous Communities, 2006: p.5

A comparative perspective of the size of the Indigenous population in the north-west region can also be gleaned from the experimental projections of the Australian Bureau of Statistics from 2009 in a map reproduced at left. The key for the map shows a population of between 900 and 2060 (the largest population...
grouping) in the darkest areas, which corresponds with the north-western part of the State, the Gippsland region and, around Healesville and in the Shepparton region (Dept of Education, *The State of Victoria’s Children*, 2009, 37).

Up until the early 1960s the Koori community of Robinvale were housed in the Manatunga Settlement which was established out of town as a staging program for assimilation. This period was characterised by the control of the lives of the residents by the Aborigines Welfare Board. From the late 1960s the Koori community gradually moved into the town itself. This period was notable for increased friction between many non-Indigenous residents and the Indigenous community. The seriousness of the matter was such that the national newspaper, *The Australian*, in November 1968 carried a large article with the headline “The war at Robinvale”. The subheading to the article stated: “On the banks of the River Murray, Aboriginals and whites are fast moving towards a head-on clash”.

In the early 1970s the Murray Valley Aboriginal Co-Operative was established to provide a range of services to the local Koori community. The organisation, with directors elected from the community, continues to operate today and provides a wide range of programs to the Koori community (although its services are not limited to the Koori community). These services include a health service, which runs a midwifery, maternal child and health, dental service, mental health services and a normal GP service. There is also a child care-centre and a kindergarten centre. In addition the Co-Op provides a foster care program, a juvenile justice program and HACC program among other services.

Relations within the township between the Koori population and the police have not always been harmonious, with the low point probably being the moment in May 1993 when it was reported in the media that two policemen had kicked and beat a local Koori. This event attracted prominent coverage in the media and led to allegations that the use of excessive police force in the township when arresting Kooris was commonplace. The matter was ultimately raised in the Victorian Legislative Assembly by the MLA for Morwell, Keith Hamilton, who called on the Minister for Aboriginal Affairs to address what he termed as “a most serious matter concerning racist, despicable goings on in Robinvale in northern Victoria.”

While there has not been another matter that has attracted such media attention there has been over the ensuing period periodic instances of tension between the police and the local Koori community and also between Koori family groups in the town. It is against this historical background that the current
3. First Contact with Police

Research indicates that within Australia indigenous offenders have their first contact with the criminal justice system at an earlier age than for non-Indigenous youth. Significantly there is scant literature that relates to the experience of Koori youth in Victoria in their dealings with the police at the point of first contact, with Allard’s work (2011) focusing upon Indigenous youth in Queensland while that of Skrzypiec (2005) draws from data in South Australia. As can be seen from the table below, the current research project revealed that the first contact for Koori youth in Robinvale occurred in a wide range from ages 10 to 20. This is not all that significant in that across all youth (and not just Indigenous offenders) there is an increase in criminal behaviour during adolescence. As can be seen from the graph reproduced on the following page, there is a spike in offending behaviour around the ages of 10-14 but there is a substantial and consistent decline in alleged offending in subsequent years. Drawing from this data it can be seen that the majority of young offenders do not have any further contact with police.

<table>
<thead>
<tr>
<th>Age of first contact</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>12</td>
<td>2</td>
</tr>
<tr>
<td>14</td>
<td>5</td>
</tr>
<tr>
<td>15</td>
<td>3</td>
</tr>
<tr>
<td>16</td>
<td>3</td>
</tr>
<tr>
<td>17</td>
<td>3</td>
</tr>
<tr>
<td>19</td>
<td>1</td>
</tr>
<tr>
<td>20 and older</td>
<td>3</td>
</tr>
</tbody>
</table>

Chart 1: Age of First Contact
Even allowing for the fact that there is a correlation between adolescent offending behaviour amongst Indigenous and non-Indigenous youth at certain ages this does not explain why there remains such a substantial disparity in the number of young Kooris being processed by the police when compared with their non-Indigenous peers.

As can be seen from the graph on the previous pages (notwithstanding a reduction in the rate at which Aboriginal youth are processed by police from around 100 per 1000 to a figure closer to 90 per 1000) there remains a huge percentage-point gap between the contact figures for the two groups of 78.9. Based upon this figure an Indigenous young people in Victoria are six times more likely to come into contact with the police than their non-Indigenous counterparts.

It is against this context of over-representation in police contact (and here the term seems to suggest an arrest rather than an informal caution or a stop and search) that we can consider the range of offences which led to the first contact between the interviewees and the police. The range of offences which led to the first contact included fighting, being drunk in a public place, graffiti and throwing stones which all fall generally into the field of good order or public order offences. Unsurprisingly the majority of these first contacts occurred in a public location (14 of the 21 interviews) while five occurred in either a business or office and the remaining two at a home.

<table>
<thead>
<tr>
<th>Offence Type</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fighting/affray</td>
<td>12</td>
</tr>
<tr>
<td>Graffiti</td>
<td>2</td>
</tr>
<tr>
<td>Drunk in a public place</td>
<td>2</td>
</tr>
<tr>
<td>Throwing stones</td>
<td>1</td>
</tr>
<tr>
<td>No answer/Can’t recall</td>
<td>4</td>
</tr>
</tbody>
</table>
4. Experience with Police

In describing their experiences with the police the youth interviewed were asked to categorise how they felt on a scale from 1-10 with 1-4 being friendly, helpful and respectful to 5-7 (neutral – professional but not very approachable) to 8-10 (aggressive, intimidating, insulting). As the chart below indicates the bulk of the interviewees felt that their experience was neutral (13 of the 21 answers). Among the four youth in the interview group who answered that they had found their experience to be negative, two were female respondents.

The respondents who felt that they had a negative experience claimed that they were verbally threatened and one of them noted that they had been physically harmed with rough handling. The nature of the verbal threats did not, according to the interviews, include elements of racial vilification but were more akin to ‘putting me down and judging’. Another of those who had been threatened verbally noted that they subsequently received an apology from the police.

The responses to these questions were significant when compared with what has emerged from the fieldwork of both Cunneen (admittedly now some 24 years past) and Smith. Cunneen's study of "Aboriginal Juveniles and Police Violence" involved interviews conducted the national inquiry into racist violence and with 171 Aboriginal youth in New South Wales, Victoria and Queensland. The review found that 82% of the Aboriginal teenagers had experienced violent encounters with police, "which was geographically widespread across the three states" (Cunneen, 1990, p.5).
The findings from Smith’s research, conducted after Cunneen’s study, confirmed the view that Indigenous youth were subjected to violent treatment and harassment by the police. Smith’s research included interviews with 50 Indigenous youth in New South Wales. The findings from Smith’s research (1990: 6) included the following details:

- Thirty-six of the fifty interviewed (or 72%) said they had been harassed by police. One said he had been "dragged by the hair," another that they "belted me for no reason", and another because "I'm a runner", and others said they were verballed.

- Thirty-one said they had been arrested unfairly, and thirty-seven said that the police swore at them, called them "little black cunts", and one said "why don't you hand yourself'.

- Thirty-six or 72% said they were treated roughly by police. One boy from Tamworth said, "I've still got bruises on my neck from last time. He grabbed me, picked me up by the throat".

- Thirty-five or 70% said they were bashed by police, and some of them sustained injuries as a result of this. "I went to the Aboriginal Medical Service because I've got bruises but nothing happened. The police told me not to hang around the area, but I live in the area."

The sense that the police were at least fair and neutral in their dealings with the young people stands in contrast to both the findings of earlier research and also the submission made by the Victorian Legal Service (VALS) in 2008 in response a discussion paper circulated and titled “Inquiry into Strategies to prevent high volume offending by young people”. The VALS submission quoted from a VALS client service who stated that every Koori child aged between 10 and 18 had a negative experience with the police of Swan Hill (a township also in the north west of Victoria and located some 130 kilometres south west of Robinvale).
When asked whether a parent or responsible adult had been contacted at the time of their contact with police nine interviewees responded that they were not contacted. Interestingly all those who responded to the question confirmed that the reason for their arrest had been explained to them by the police.

Information provided by Mrs Lillian Pettit from the Aboriginal Community Justice Panel (ACJP) attests to the reduced level of formal contact between the police (involving arrest and being held in the cells) and Robinvale’s Indigenous youth. The CJP is a voluntary body that is on call 24 hours a day to attend the police station when an Indigenous person is taken into custody. The Robinvale CJP is one of thirteen operating in the State of Victoria. In the period from July to December 2013 there were six contacts with the CJP involving Indigenous male youth and none for Indigenous female youths. In addition there were 12 informal contacts (involving both adult and youth) in the same period.

*Indigenous Australians have a particular relationship with police and Courts which is often poor and results in cultural alienation. ... The point can be illustrated by evidence that police use their discretion to arrest rather than caution Indigenous Australian youth in comparison to non-Indigenous Australian youth. Arguably, underlying racism influences the actions of police to arrest more Indigenous Australians than non-Indigenous Australians.*

VALS submission to the Drugs and Crime Prevention Committee in response to the ‘Inquiry into Strategies to prevent high volume offending by young people’ Discussion Paper, (2008) p.4
5. Experiences in the Court

All but one of the interviewees had appeared in court with legal representation provided by a combination of the Victorian Aboriginal Legal Service (VALS), Legal Aid and private solicitors. A number of youth indicated that they had not been represented but this is most likely due to the fact that a court appointed solicitor appeared on their behalf and they did not think that they were ‘their lawyer’. The interviewees were questioned about how they felt about their legal representation, with 1-4 being positive (listened to me, understood the case), 5-7 as neutral (professional but not all that approachable) and 8-10 as negative (not very approachable and I didn’t think they listened to me). The youth that were represented by VALS tended to be very positive about how they were treated by the lawyer and felt that they had been listened to.

Eighteen of the interviewees reported that a Koori Justice Worker had been in attendance in their hearing, while two stated that there was not one there. There was very strong recognition of the work done by the Koori Justice Worker and the support they received from them.

In relation to the treatment by court officials only a small sample of ten interviewees responded to the question. Given that the question specified the example of the Court Registrar this may have been confusing for some young people as they would not necessarily have any interaction with the court personnel. What was interesting is the feedback was generally positive as to the treatment by the court itself in sentencing. More particularly there was very positive feedback on the experience of appearing before the Koori Court. To avoid making the interview overly long there was no specification as to the jurisdiction of matter (Children’s Court as distinct from the Koori Court) but the treatment
that the young people received there clearly made an impact upon them. The interviewees observed that they had been ‘fairly treated’ and ‘found them helpful I attended Koori Court’.

Significantly half of the interviewees reported that their most recent appearance in court had been their first time (ten were appearing for the first time, ten had appeared in court before and one interviewee who had been the subject of a stop and question was not charged). Not all of those interviewees who had previously appeared in court answered the question regarding the number of previous appearances. Of the five who did reply, two had appeared twice in court and three had appeared five times or more.

While the large majority of the youth had received some form of sentencing disposition, the majority, when asked about their frequency of their contact with the police subsequent to the first contact responded either ‘rarely’ or ‘not recently’ (13 out of 21 interviewees). Among the sentencing outcomes, eight interviewees had received a good behaviour bond, four received a CBO (Community Based Order), two received a CWP (community work placement), two received a suspended sentence (and at least one of these was in the Koori Court), one received a suspended sentence and three had were sent to a juvenile detention centre.
Chart 3: Dispositions after most recent appearance
6. Has the contact with the justice system changed behaviour?

A majority of the interviewees believed that there had been a change in their behaviour as a result of their contact with the criminal justice system (15 of the 21 interviewees). As the quote at left seems to indicate, the reasons for any change in offending behaviour seems to have been more directly related to a conscious decision on the part of the young person, rather than a direct consequence of involvement in any court ordered program. It should be emphasised that the change of behaviour does not necessarily equate directly to a halt in offending behaviour of all types. In one case a respondent observed that there had been ‘sort of’ a change in behaviour while another more specifically observed that it had influenced the ‘severity’ of their offending. The reduction in offending behaviour amongst young people is consistent with the evidence drawn from across various jurisdictions that most young people who are involved with the police before the age of 18 tend to ‘grow out’ of crime as they reach late adolescence (Richards, 2009: 108).

Chart 4: "Have sentencing orders resulted in any change your behaviour?"

- Yes because you didn’t want to go through court again or do community hours
  Male 22

- The family all called me on Christmas and New Years saying they were all together having fun. I decided then I didn’t ever want to go back and miss that time so I tried to change
  Male 23

- I felt that the severity of the sentence changed my behaviour for the better
  Male 18
7. Reasons behind offending behaviour

When asked what they felt was the reason behind their offending behaviour in the period beyond the point of first contact two-thirds of the youth linked it to issues related to drugs and alcohol.

Chart 5: Reasons for offending behaviour - interviewee responses

![Chart showing reasons for offending behaviour]

The youth interviewed clearly saw a link between their use of drugs and alcohol and their contact with the justice system. This is consistent with the literature that identifies substance abuse, along with lack of employment, access to safe housing and mental health issues as being the key drivers of offending behaviour in youth. The main concern that emerges from this response was also identified by Elders who were interviewed and relates to the increased usage of the drug ICE in rural communities (see specifically the comments below by Mrs Thelma Chilley).
8. What can be done to improve experience of Koori youth and young people in the justice system?

When asked what they believed should be done to reduce the extent of the contact of Koori youth with the justice system the answers identified the need for training and program. From a general response that there was a need for ‘more programs’, there were also specific references to the need for training for jobs and specific programs relating to drug and alcohol issues. It is not articulated explicitly but the young people were clearly concerned that there were insufficient programs that provided training so that there were more opportunities for employment or training, programs to address issues that directly related to offending behaviour (particularly the concerns in relation to drug alcohol). The availability of relevant programs is a particular concern in rural areas and specifically in relation to Indigenous youth.

More activities for youth
Female 13

Programs in area to help with drug use. Things for youth to do as there is not much here
Male 17

More opportunities for young people as there is not a lot around in the way of jobs, training activities etc
Male 17

Programs are good and well but they have to lead to a real job so we can have a real life
Male 22.
9. Other Community Perspectives: Elders and Respected Persons

The original objective of this project was to focus upon the experiences of the justice system of Indigenous young people in rural north-western Victoria. In discussions with the Murray Valley Aboriginal Co-Operative staff and specifically Mr Rocky Sloane, Mr Phil Egan, (former CEO), Mr Laurence Costa(former CEO) and Mr Stephen Bowden(current CEO) it was emphasised that the opinions of elders and respected persons should also be sought. Ideally it is hoped to convene a community forum to take account of all of the community opinions but the current project was limited to discussions with three community members who provided invaluable insights.

The general consensus among the interviewed Elders was that there is a generally good relationship between the local Indigenous community and Victoria Police. While this has not always been the case it was significant that both Lillian Pettit and Thelma Chilley singled out the work done by specific members of the local police and also the support received from the senior levels of the police force. Mrs Pettit observed, for example, that the Police Commissioner had visited the town in November 2013 while Mrs Chilley commented upon the close working relationship with the previous Superintendent and the fact that this good working relationship had been continued with her successor.

*Relations are good at the moment.*
*More involvement from the Police with the community. For example, the female sergeant, she’s leaving now, but she coached the girls in basketball in the NAIDOC tournament. This sort of involvement is good with the community. You still get the odd ignorant one (Police) but on the whole its good.*

Lillian Pettit

*For me in Robinvale I think that community / police relations are probably at its best – better than it has been in many, many years. We have a fantastic Senior Sgt who has fostered a community focus at her station and many of the members there have fantastic attitudes towards the public but in particular the Aboriginal Community. I would therefore describe police relations in our community as excellent.*

Thelma Chilley
When questioned about Koori youth involvement with the justice system both Mrs Chilley and Mrs Pettit were of the opinion that there had been a substantial reduction in the levels of offending and contact. Where there is offending Lillian Pettit noted that it continues to be largely alcohol related offences.

Notwithstanding the positive aspects both Elders expressed concern at the proximity of the use of ICE, with Lillian Pettit noting that; “ICE is a big issue in Mildura and the affects are starting to trickle down here too.” The criminal offending linked to ICE addiction that has recently been the subject of media coverage was also commented upon by Mrs Chilley (see quote box below, left). The extent to which ICE has become a problem within Indigenous communities prompted the Victorian Aboriginal Legal Service (VALS) to make a submission in late 2013 to the Victorian Parliament’s inquiry into the supply and use of methamphetamines in Victoria. The VALS submission noted that there had been an increase of 38% in drug related arrests in the three years from 2007 to 2010. However there submission could not make a definite correlation between the increased arrest rates and the use of ICE as the drug of dependence is not identified in the data fields (VALS, 2013:6).

Significantly drug related arrests in the Sunraysia region (where Robinvale is located) over the period 2010-2011 and 2012-2013 increased by 40% - a statistic which would seem to lend credence to concerns about a future spike in future offending related to ICE usage.

Given that a number of the Koori youth interviewed gave positive feedback regarding the role of the Koori Court it was interesting to note that this was confirmed by both Elders,

In Robinvale, we don’t have much trouble anymore with Juveniles offending – there’s been a big step away from the justice system for our young people and we hope its got a lot to do with the programs on offer for our younger people in Robinvale.

Thelma Chilley

In Robinvale, we don’t have much trouble anymore with Juveniles offending – there’s been a big step away from the justice system for our young people and we hope its got a lot to do with the programs on offer for our younger people in Robinvale.

Thelma Chilley

Thelma Chilley

Thelma Chilley

Thelma Chilley

I do think that our youth are highly engaged in risky behaviour though - this includes acute intoxication and drugs - there are rumours of ICE in our community and that bikie gangs are using young people to ferry the substance across the region after getting them addicted to it first.

Thelma Chilley

I believe that Legal Aid is available but not working as efficiently as it could – an example could simply be that LA staff / solicitors & field officers should make much earlier contact with the client to discuss and build a good case – instead of showing up at court on court day and not being prepared and not having a chance to take the statement of the client before they appear before the Magistrate.

Thelma Chilley

Thelma Chilley
with Mrs Chilley observing “I am a great believer in the Koori court – our Elders have reduced recidivism because of their approach to LAW as well as the LORE.” In a similar vein Mrs Pettit commented “Koorie court is more settled (into the system) now. At the start people thought if they go they'll just get off.” There was recognition of the role of VALS and its importance in providing representation to Koori youth (and adult) offenders as noted in the quote box to the right. Similarly Mrs Pettit commented; “VALS is consistent, but at our last meeting advised they are still trying to improve their services.”

The main difference that emerged in the respective appraisals by the two Elders of the issues in Koori justice programs for youth in Robinvale was in the effectiveness of programs. While Mrs Pettit was of the view that there was not much in the way of support once the youth had been through the justice system, Mrs Chilley was of a more positive view, noting that the programs overseen by Mr Joe Hurst had proved very effective – although both Elders expressed dismay at the fact that funding was not available for longer periods of time that would provide greater access to them.

Community member and former CEO of the Murray Valley Aboriginal Co-operative, Mr Phillip Egan, viewed the issues of youth justice from a slightly different perspective to the other Elders. The solution to questions of youth justice he maintains lies with greater leadership within families and a reduction in the reliance upon the delivery of services from organisations like the Co-operative. While he stressed that the issues in the community should be seen in the historical context of discrimination and disempowerment he also criticised the emergence of what can be seen as welfare dependence. He believes that the programs that are provided are too often departmentally driven, focusing on tertiary end programs. Further, he states that there is little scope for community organisations to deliver and develop programs that are responsive to the specific needs of the community they serve as the programs often have to comply with very specific, narrow guidelines for ‘service delivery’.

In our area – Joe Hurst follows up all of the Koori kids involved in the CIS. He is fantastic and we are lucky to have him (ex-footballer) I also think that Justice does a good job in our Region and Staff is always willing to help out and be engaged at our community events, often supporting in-kind at many of my event. The IDC has certainly helped put people at Justice in touch with community and other agencies. It’s a pity they could not be funded for longer periods of time

Thelma Chilley
12 The Availability of Programs

In considering the call for ‘more programs’ to address the over-representation of Indigenous youth in the Victorian justice system it is important to distinguish the different types of programs that might occur at different stages of youth contact with the justice system. Specifically we might distinguish between those programs that occur prior to any contact with justice agencies and those that occur in the aftermath of contact (questioning, arrest, prosecution, sentencing and post-release). The distinction between the moments of diversion is presented in the diagram below, drawn from the *Practical Lessons, Fair Consequences* discussion paper.

![Diagram of Points of Diversion]


The programs that are identified as being prior to the first contact with police can take many forms. More generally we can identify the nature of programs into categories which would include:

1. Programs that are directed towards channelling young people away from the criminal justice system before contact.

2. Diversions that take place as a consequence of contact with the justice system and include (Allard, 2009, p.3) the following options;
   - True diversion, where law enforcement agencies handle youth informally;
   - Referral service and follow-up, where youth are referred prior to adjudication to treatment sources outside of the justice system.
• Minimisation of penetration, where contact with the justice system is minimised; and

• Channelling to non-court institutions, where individuals are involved in interventions without passing through court processes (Whitehead & Lab, 2001).

In addition to the programs that focus upon diversion from the justice system it should be noted that the programs identified by the interviewees might also take account of treatment sources at the stage of post-release, which is more concerned with minimising the prospects of re-offending. In the context of the current project the focus was clearly upon programs that would address behaviour that might lead to contact with the criminal justice system or diversion programs that could address offending behaviour.

Certainly there has been in recent years an increased recognition of the need to provide specific programs to address the levels of over-representation in the criminal justice system by indigenous youth.

The current range of programs available to Indigenous youth through Murray Valley Aboriginal Co-Operative includes Youth services within an integrated family devices model. The youth worker (Angelika Fevaleaki’s) position is funded by Juvenile Justice and the program offers a range of youth activities and diversionary programs for youth involved with or at risk of involvement with the justice System. In addition the Men’s Time Out service is funded by Indigenous family violence legal service and this provides programs for men and youth.

In relation to programs geared towards addressing offending behaviour and reducing the levels of recidivism it should be noted that there are, on a state wide level, a range of programs specifically tailored to address Koori issues. For example there are is the Koori Offender Support and Mentoring Program (KOSMP) which supports adult Kooris on community-based dispositions to successfully complete their orders by engaging Elders and Respected Persons as mentors to provide community based local support, advice and cultural connection to offenders. As the description suggests however the program is not available to young offenders who are the major focus of this research. Similarly the Local Justice Worker Program (LJWP) offers support to Koori offenders in complying with their

The YIYAC Report highlights that 68% of young people surveyed felt that there are not adequate programs and services aimed at improving or promoting positive lifestyle choices for Aboriginal and Torres Strait Islander young people

National Indigenous Youth Leadership Group 2004-2005
‘Having our voices heard: Aboriginal and Torres Strait Islander Youth Perspectives’, page 10

Experiences of Koori Youth of the Justice System in N-W Victoria
court ordered community based dispositions (emphasising a culturally appropriate setting) but is only available to adult offenders. In addition the LJWP is limited to ten specific locations which do not include Robinvale.

For the young people interviewed the major concern for programs was clearly for training programs that would deliver employment opportunities. Of the interview group who had left school (which comprised all but three) none were currently employed. It should be emphasised that this was typical of the employment opportunities for Koori youth in the town. That said, there have been some positive programs directed towards training and employment skills. The current Chairperson of MVCA, Mr Phillip Egan, gave an example of one positive program designed to provide employment based skills training. He noted that MVAC had seven participants in a nine week training program that was delivered through a Skills Vic contract. The training gave participants a certificate in AHC32810 CERT III RURAL OPERATIONS. This program of nine weeks duration included training in Heavy Machinery qualifications, Civil Construction skills relevant to agricultural work as well as further skills in fencing and farm and property maintenance and construction. While this can be seen as a positive development it must also be emphasized that such training courses are infrequent and all too often subject to budget cuts which means that there is continuity in the service delivery.
13 Conclusions

Notwithstanding the relatively small number of interviewees the research project provided a number of significant findings.

- **All of the interviewees had experienced contact with the police force and some at a very young age.** The experience of all of the interviewees confirmed that they had all experienced contact with the police and for some this occurred when they were as young as 10 and 12. This was consistent with literature from other jurisdictions which indicated a high level of Indigenous youth having contact with police when compared with their non-Indigenous counterparts.

- **The self-reporting suggested a very low level of re-offending in the interview group.** This focus group seems to indicate a very low level of re-offending. More than two-thirds of the youth (16 of the 21 interviews) reported that they had contact with the police only ‘rarely’. One young offender who had first contact at the age of 12 noted that in the intervening twelve months they had had contact with police twice while still others commented that they had contact ‘when out with their friends’, suggesting a dimension of policing that focuses upon groups of young people (not only Indigenous) in public areas.

- **Relations between Koori youth and police in Robinvale seems very positive when compared with previous periods in the town’s history.** Contrary to earlier research by Cunneen (1990) and Smith (1990) there is no clear evidence of systemic over-policing or of poor relations between the local police and the Koori youth in the town. In particular the instances of rough treatment and abuse seem to have been isolated and did not indicate any elements of racial vilification or violence. There was widespread recognition that the police informed them as to their rights and what they were being charged with. What was clear from the subsequent interviews conducted with community Elders was the belief that there had been a substantial improvement in the nature of relations between the police force and the local Indigenous community.

- **The interviewed youth generally believed that they were treated fairly in their appearances before the courts.**

- **In large part the young people found their legal representatives to be either good or at least neutral.**

- **Changes in offending behaviour and reduced contact with the justice system among the young people was attributed to a desire not to be locked up or away from family, rather than the impact of any specific program or treatment order.**
• There is some anecdotal reference to poor relations developing between the police and Tongan/Polynesian youth in the township. Through discussions with Indigenous youth who identified as having both Tongan and Indigenous ancestry and Tongan-Australian youths who were in conversation with the research assistant it became clear that there was strong sense that this group was the subject of police harassment and targeting. While not the area of focus for the current research project it is a matter for consideration as to whether there has been a shift in the emphasis upon policing of youth from Indigenous youth to those of Tongan descent. Whether this can be explained as an example of ‘over policing’ or an increase in offenses committed is unclear from anecdotal and limited information. It is worth noting however that the annual report of the Youth Parole Board for 2011-12 expressed concern that the 8.5 per cent of the young people sentenced to detention were from Maori and Pacific Islander backgrounds – a significant trend of over-representation (Youth Parole Board report 2011-2012, p.16).

• There is concern expressed by both youth and Elders as to the need for programs for Indigenous youth in the town. This encompasses both training programs that deliver employment opportunities and also those programs that might either divert at pre-sentence stage from the formal court processes or provide a treatment based order. The main problems identified were there was often no continuity in programs delivered due to funding cuts or the fact that some programs simply were not available in the town but were available in other locations with large Koori populations. With the increased availability of ICE in the Sunraysia area the need for an appropriate response in terms of drug education awareness and the provision of meaningful training programs is all the more urgent.
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Appendix 1

KOORI YOUTH JUSTICE QUESTION

Background

Age
Gender
Living:
   At home
   With relations
   Friends/other
   Shared accommodation
   Other
Are you still attending school?  YES/NO
If YES, year level, if NO level when left school.
If left school are you employed?  YES/NO

Contact with the Police

Have you ever had contact with police?
If so, how often roughly?
What was your age at first contact with police?
What was the first contact about?
What has been the nature of the contact?
   Stop and question
   Stop and search
   Stop and arrest
Where has the contact taken place?
   Public area
My home

Another persons home

An office or business

Other

If you were a juvenile at the time of first contact did the police contact an adult or a CJP worker or your parents?

How would you describe your experience of the contact with police? Scale from 1-10 with 1-4 being friendly, helpful and respectful to 5-7 (neutral – professional but not very approachable) to 8- 10 (aggressive, intimidating, insulting)

1 5 10

If you felt threatened by the police during the arrest/detention how was that shown?

Words

Gestures

Physical treatment

Other

Were any words or phrases used towards you that you felt were offensive, racist, threatening?

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Were there any threats of physical violence? YES/NO

If YES, explain further............................................................................................................................................................

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Was actual physical force used? YES/NO

Was it in the course of arrest or separate?
What sort of force was used? (Pushing, punching, rough handling, use of an instrument such as a baton)

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If they did proceed with arrest did they take you to the local police station?  YES/NO

Was an adult, family member or the CJP contacted?  YES/NO

How were you treated in the police cells?

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Did the police explain what you had been charged with/why you had been detained?  YES/NO

Did you feel that they listened to you at this stage?  YES/NO

Did they give a clear explanation of your rights when you were arrested?  YES/NO

How was your experience in the police cell?
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**Court Appearance**

If your matter proceeded to court how did you find your experience at the Court House?

How would you describe the attitude of court officials? (Court Registrar for example)
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Was there a Koori Justice Worker there?  YES/NO

If so, what did they do?

Did you have legal representation?  YES/NO

If YES, was it:

VALS

Legal Aid

Other
How did you find the lawyer that represented you? On a scale from 1-10 with 1-4 (listened to me, understood the case, made me feel like they were respectful) 5-7 (professional but I didn’t feel they were very approachable) 8-10 (not very approachable and I didn’t think they listened to me).

1 5 10

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In your most recent appearance what was the outcome?

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Was this your first appearance in court? YES/No

If NO, how many times roughly have you appeared before the courts?

What was the age you were first convicted for an offence and what was the sentence you received?

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What has been the most serious penalty you have received?

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Do you feel the orders and sentences you have received have resulted in any change in your behaviour?

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If you have been involved in offending behaviour resulting in a court appearance are there any things that you think have contributed to this?

Drugs

Alcohol

Lack of job prospects

Other
What things do you think can be done to improve the experience of Koori youth of the justice system either in separate areas (police, lawyers, courts, corrections) or generally?

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