

Contemporary Comments

Bridges or Band-aids? Another Death in Police Custody Reveals Fatal Flaws in the Aboriginal Liaison Officer Concept

Abstract

The appointment of liaison officers to act as bridges to vulnerable or hard to reach communities is a standard application of a community policing philosophy, and one that would seem to have much to commend it. However, in the case of many Indigenous communities, the very nature of the role is historically suspect. This comment traces the role of the Aboriginal liaison officer Lloyd Bengaroo in the tragic death of Mulrunji in police custody on Palm Island, and considers broader questions about policing strategies in communities with a history of rejection of police authority. While recognising that Aboriginal liaison officers may be an accepted adjunct to State policing in some areas, the comment concludes that these unsworn officers cannot be expected to substitute for genuine consent to policing in areas where police legitimacy is in serious dispute.

On 19 November 2004 Mulrunji,¹ a reportedly healthy and well adjusted 36 year old man, also known as Cameron Doomadgee, died on the floor of a police cell in Palm Island with massive trauma injuries to his liver. The arresting officer, Senior Sergeant Chris Hurley, was acquitted of his manslaughter in June 2007. Now that legal proceedings are over, it is time to reflect on another Aboriginal death in custody and what it tells us about the still unhealthy state of police-Aboriginal relations in many parts of Australia.

In the three years since Mulrunji's death, much has been said and written about the ill-fated decision by Senior Sergeant Hurley to arrest him that day; about the appalling violence of his death and the acts of omission and commission which contributed to it; about the initial decision not to prosecute, and the undermining of the Coroner's judgment by the Director of Public Prosecutions; about the flawed police investigation and lack of independent review of its manifest failings; about the subsequent deaths of the key witness and other members of Mulrunji's family, the eruption of violence following the deaths, the Queensland Government intervention in the legal process; and, not least, about the extraordinarily partisan actions of the Queensland Police Union in opposing Hurley's eventual prosecution.

The main purpose of this comment is to draw attention to an aspect of the tragedy which has attracted less debate; namely the role of the police Aboriginal liaison officer Lloyd Bengaroo, and the broader questions this raises about policing strategies in communities with a history of conflict and rejection of police authority. Nowhere does this legacy run deeper than on Palm Island. In the 1970s the island was likened to a 'concentration camp' for troublesome Indigenous people from all over Queensland (Amnesty International cited

1 According to some commentators, the spelling Moordinyi is closer to traditional usage, but Mulrunji was used in the Inquest and subsequent reporting, and will be adopted here.

in Kyle 2001). Criminologists have drawn attention to the extraordinary level of inter-personal violence which is one of the outcomes of this dislocation (Wilson 1985). More recently, it is the troubled relations between residents and the police that have come under scrutiny.

Although bearing the familiar hallmarks of yet another case of overpolicing, the arrest of Mulrunji for public nuisance is also embedded in demands for protection by Indigenous women. Senior Sergeant Hurley was embroiled that day in circumstances which must have occurred all too frequently – being called upon to assist local women in fear of assault from male relatives. Hurley was accompanying two such women to their home, when he made his first arrest of a young Indigenous man, following a complaint by the young man's grandmother. It was Mulrunji's misfortune to be walking past at that time and to witness the arrest of his friend. According to the Coroner's report (Clements 2006), Mulrunji's intervention began with comments directed at the police liaison officer Lloyd Bengaroo about his motives for helping to 'lock up his own people'. Police officer Hurley was not involved in this exchange, and Bengaroo advised Mulrunji to walk away or risk being arrested himself. (Whether this was meant as well-intentioned advice or as a provocation, is hard to tell.) Mulrunji did this, but paused to direct a final parting shot, still out of earshot of Hurley who had to ask the liaison officer what had been said. From that point on it appears that Hurley slipped into the deeply institutionalised response of making a public order arrest. This required him to pursue Mulrunji, who by this time was walking away.

The Coroner considered the arrest to be totally unjustified. Mulrunji was heavily intoxicated but presented no threat to public safety. He had made no attempt to physically prevent the arrest of his friend, although he resisted his own arrest later, on arrival at the police station. He was said to be unknown to police and therefore an unlikely candidate for an aspirational arrest of the 'fishing expedition' variety. There is no way to understand the arrest decision, other than as an assertion of police authority.² Hurley reportedly claimed to have made the arrest in support of Bengaroo (Morreau 2007). It would seem that the experienced officer was seeking to shore up the fragile legitimacy of the Aboriginal liaison officer role and the wider police authority which it represents. This interpretation was even proposed by the Coroner: 'What is clear from the evidence is that Senior Sergeant Hurley felt the need to exert his authority, ostensibly on behalf of the Police Liaison Officer who did not have direct authority to do more than warn Mulrunji' (Clements 2006:3).

According to reports, Lloyd Bengaroo had to leave Palm Island in the aftermath of Mulrunji's death to ensure his own safety (McCarthy 2007). Whatever anger was directed towards him could have stemmed from his involvement in Mulrunji's arrest, or to perceptions that he colluded with the police in the subsequent investigation. The police investigation into Mulrunji's death attracted harsh criticism from the Coroner for its lack of independence, and Lloyd Bengaroo's eye witness testimony was dismissed by her as being inconsistent and unreliable. Bengaroo is reported to have told the police investigators 'I just stood there because I was thinking if I see something, I might get into trouble or something. The family might harass me or something' (Koch 2007). One can only imagine the pressure from both sides to either report, or not report, what he had seen in the police station.

2 Reports that Senior Sergeant Hurley was a dedicated officer who volunteered to work in Indigenous communities, and had personally advocated the establishment of a Diversionary Treatment Centre on Palm Island (The Cairns Post 2007), do not alter the fact that he operated within a system that normalised the detention of Aboriginal people as a standard response to intoxication and unruly behaviour.

The appointment of liaison officers to act as bridges to vulnerable or hard to reach communities is a standard application of a community policing philosophy, and one that would seem to have much to commend it. However, in the case of certain Indigenous communities the very nature of the role is historically suspect. A long shadow is cast by the Native Police who worked in concert with colonial troopers, ostensibly to extend the protection of the Crown to these reluctant British subjects, but more often (and especially in Queensland) to disperse and violently dispossess neighbouring tribes (Finnane 1987). History is, of course, not destiny, but pressures over divided loyalties must be intense in communities already struggling with a legacy of internal divisions. The recent history of Palm Island challenges the first assumption of community policing – that is, that there is a recognisable and relatively homogenous ‘community’ to police.³ In fact, Palm Island has been described by one prominent insider as an ‘artificial community’ (Kyle 2001). Gendered differences in attitudes towards police intervention add another layer of complexity to these social divisions, while the collective experience of dislocation and harsh discipline is said to have ‘destroyed our people’s capacity to develop their own social controls’ (Kyle 2001).

Aboriginal liaison officers are not sworn police and are therefore destined, like Native Police, to occupy a subordinate position to mainstream officers. At the last count there were 115 Indigenous liaison officers employed in Queensland, about half of them female. More than half the liaison officers held a TAFE qualification (Cunneen 2007). This reportedly puts the Queensland scheme ahead of other States in terms of training and employment conditions, and with respect to clarity of the liaison officer role (Cunneen 2007). Indigenous liaison officers are police employees not community representatives, with a role to ‘promote trust and understanding’. In Queensland this includes responsibility for advising and educating both the police and the Indigenous communities, and an explicitly stated objective of diverting Aboriginal people from the criminal justice system (www.police.qld.gov.au/join/plo/). Despite their lack of powers, police liaison officers in Queensland wear the same uniform as sworn police. For this reason alone, they will always be suspect wherever police are believed to act against community interests. On the other hand, they are likely to have quite limited capacity to influence the decision-making of the sworn police officers with whom they work. This creates an unenviable combination of responsibility (or culpability, depending on your point of view), in the absence of effective power. If Lloyd Bengaroo did try to intervene to prevent the arrest of Mulrunji (and there is no indication that he did) it is open to question what impact he would have had.

The role of Aboriginal liaison officers has been called into question elsewhere, for example during the Inquiry into the disturbances in Redfern following the death in custody of the teenager ‘T.J.’ Hickey.⁴ The NSW Legislative Council Inquiry noted the difficulty of attracting and maintaining a full contingent of Aboriginal Community Liaison Officers (ACLOs), and attributed this largely to the inherent difficulties of the position (NSW Legislative Council Social Issues Committee 2004). The liaison role in NSW includes fostering good relations and communication, and mediating disputes between police and Aboriginal people. The Inquiry noted the invidious position of these officers, who endured both in-service racism and pressure from local communities.

3 This is not to denigrate the considerable efforts at community-building being undertaken in Palm Island, possibly with the active support of sections of the QPS, to which I will return later.

4 This comment does not attempt a comprehensive review of literature on the effectiveness of police liaison officer schemes, but draws on selected sources to place the Palm Island events in a wider context.

Around half of the 32 strategies and initiatives presented in the State Government response to the Redfern Inquiry referred to increased police numbers, riot preparation, surveillance and measures to increase police safety (NSW Premier's Department 2005). While increased efforts at youth liaison were included, an undertaking was made to fill the vacant ACLO position in Redfern, and improved training and support were recommended, the document appears to focus far more on tough policing than on relationship-building to quell further disorder. These policing measures are supported by a range of socio-economic initiatives specified in the Redfern-Waterloo Plan which, while no doubt both welcome and overdue, potentially divert attention away from more fundamental and vexing questions about police legitimacy. For example, the recommendation of the Inquiry (s2.108) that police formally review the ACLO program and report the results in six months' time seems not to have been fulfilled.

Judging by media reports and other readily available accounts, official statements about policing in Palm Island have also concentrated more on clamping down on unrest than on mending relationships. Following the collective violence which destroyed the police station and the designated police housing, essential services such as medical care were withdrawn. The Police Minister announced more police and more solidly built police housing as key elements of the solution to a problem that had apparently been defined, as in Redfern, as a problem of order. This is not to dismiss the possibility that quiet efforts towards rebuilding may be going on away from the public eye. For example, an Indigenous community/police consultative group was formed in March 2005, and Palm Island mayor Delena Foster was quoted in June this year as saying that Mulrunji's death, while tragic, had 'shone a light on the community' and had 'made us aware we needed to stand together and fight for justice' (McCarthy 2007).

Still, the DPP's opposition to the methods and conclusions of the Coroner placed her in a position of collusion with the police in the eyes of many observers (Mackenzie, Stobbs et al. 2007); and the failure of the Crime and Misconduct Commission, thus far, to identify any grounds for disciplinary action by the Queensland Police Service leaves unresolved a case which, at the very least, raises serious questions about duty of care (Crime and Misconduct Commission 2006). The police malpractice in the investigation which followed Mulrunji's death (Clements 2006) and the extraordinary interventions by the Queensland Police Union to oppose the prosecution of Senior Sergeant Hurley could hardly be expected to assist in building community policing 'bridges'. Admittedly, police anger over what was seen as political interference in the prosecution process, was fuelled by long running political disputes over police funding, unacceptable levels of violence against police (including several police killings) and calls (as ever) for more severe penalties to deter attacks. A concerted campaign purported to have cost well in excess of a million dollars (Gregory 2007) included public protests by police and a shameful series of radio advertisements which likened the actions of Premier Beattie to Robert Mugabe, while associating the police cause, even more bizarrely, with Martin Luther King. It might be argued that in opposing Hurley's prosecution, the police union was indicating its contempt for both the courts and the government of the day, rather than expressing racist sentiments.⁵ Ironically, in doing so, their own lack of faith in the judicial process mirrors the rejection of police authority which was the catalyst for the Palm Island events.

5 This interpretation becomes a little strained if one recalls that the Queensland Police Union President Gary Wilkinson criticised Police Commissioner Jim O'Sullivan in 1999 when he apologised to Indigenous people for past wrongs committed by police (Monk 1999).

As in Redfern, a wide-ranging report about services on the island was completed in the aftermath of Mulrunji's death and the ensuing disorder (Legislative Assembly of Queensland 2005). Issues raised by the Select Committee show parallels with the very different context in Redfern – painting a picture of largely inexperienced police, with a high turnover of personnel preventing the development of relationships with the community, and recommending further efforts at community-based options for diversion from custody. In their response to the Inquiry report, the Palm Island Aboriginal Council set out four priority areas for residents: land, governance, economic development and justice (McDougall 2006). Interestingly, improvements in Aboriginal police relations were seen by the Council as a *precondition* for the much wider program of reform and development outlined in the report: 'Given the history attending the initial placement of indigenous people on the Island, as well as the well-documented recent death in custody, it is difficult to see how medium term development will be achieved without considerable investment into improving police relations with the community' (McDougall 2006:38).

Addressing socio-economic disadvantage (and some would argue alcohol and substance misuse, in and of itself) is clearly relevant to the circumstances which generate police intervention in the first place. Poor living conditions have also been identified as an aggravating factor in the angry response to the death in custody. However to focus solely on links between socio-economic circumstances and Indigenous criminality would be to misrepresent those problematic interactions between police and Indigenous people which have little to do with 'crime' of any consequence. Arrests for drunkenness, swearing or offensive behaviour will almost always come down to a matter of imposing police authority in the face of resistance and frustration. This is a matter of history (and the impressions left by history on present day consciousness), more than a question of economics. Improved services are justifiable on social justice grounds alone, and may produce some crime prevention dividends as well. But simply imposing more, and better resourced policing, or reliance on 'bandaid' measures such as Indigenous liaison officers, in situations where they are so severely compromised as to be potential flashpoints rather than mediators, seems doomed to fail.

For many people, the search for answers inevitably leads back to self determination:

The most costly mistake that governments and their departments continue to make is that they think that the provision of infrastructure and the introduction of co-coordinated program delivery strategies into our Communities will solve the social, political, cultural and economic issues impacting Aboriginal and Islander people ... There is an urgent need to transfer to Aboriginal and Islander people full responsibility for managing our own environment and services (Kyle 2001:4).

Many innovative models have been tried to promote indigenous involvement in policing. Community patrols provide an alternative mode of consensual policing which derives its authority through observation of cultural protocols and is potentially sensitive to the needs of particular communities. But self-policing generates its own set of problems: it is not immune from community divisions, can raise contentious issues about links with mainstream police, and may be vulnerable to co-option into the security needs and definitions of non Aboriginal populations (Blagg & Valuri 2004).

In a recent review of police-Indigenous relations, Cunneen (2007) identifies a number of policing strategies aimed at diverting Indigenous people from police custody. Improved participation of Indigenous people in mainstream policing is one avenue, but has been limited by difficulties in attracting and retaining candidates, for reasons which should be apparent from the preceding discussion. Aboriginal community police who have limited powers to enforce Indigenous Council by-laws are a community-based alternative (as

discussed above); but, Cunneen notes, community police often suffer from inadequate supervision, training and employment conditions. 'Special police' who operate under direct police control appear to have been most successful in locations where effective community justice systems are operating, as demonstrated through research in some Queensland communities. Of all the current alternatives, Cunneen identifies Aboriginal liaison officers as the least promising, primarily due to problems of legitimacy.⁶

In the face of both evaluation evidence and official recommendations supporting the integration of 'special police' programs within Indigenous-led community justice frameworks, the Queensland Government has opted instead to replace all Aboriginal community police with State police supported by Indigenous liaison officers – arrangements which Cunneen concludes are 'unlikely to enhance community governance' (Cunneen 2007:21). This approach, which requires the redirection of CDEP funds previously used to employ Indigenous community police towards general State policing, is justified on the grounds that it 'will ensure Indigenous communities are provided with a professional policing service comparable to that provided in non-Indigenous communities' (Queensland Government 2006:27). These policies are consistent with the move towards mainstreaming and the disavowal of self determination (most recently reflected in the refusal to ratify the UN Declaration on the Rights of Indigenous Peoples) that is apparent within Indigenous affairs at a federal level.

An important question to ask is: What do Palm Islanders want for themselves? The Palm Island Council document cited earlier notes that rates of incarceration on the island have in fact increased since the signing of an Aboriginal Justice Agreement which contained a commitment to halve the custody rate between 2000 and 2011. The Council advocates instead a 'specially adapted' community policing program overseen by the Crime and Misconduct Commission (who apparently retain some credibility as an honest broker), coupled with a proposal to provide in-residence cultural awareness training for Queensland Police officers on Palm Island (which has the added benefit of generating local employment). The Council's report emphatically rejects both the government's 'safety in numbers' approach to policing reform on Palm Island, and what it calls the 'failed policy' of Indigenous liaison officers:

Increasing the quality of community policing in collaboration with the community will deliver better outcomes than merely relying on the force of numbers to deliver control. Increasing the number of indigenous police officers, as distinct from the failed policy of community liaison officers, will require specific increases in government funding and attitudinal shifts in the policing culture. Doubling the numbers of police also absorbs valuable resources which would be better directed toward the costs of implementing effective community policing (McDougall 2006:40).

In advocating the integration of Indigenous police officers within mainstream policing structures as part of the solution, the Council is hardly setting out a manifesto of radical separatism, as opponents of self-determination often contend.

The lesson seems to be that there is a need for a multiplicity of policing forms, adapted for local situations, based on principles of empowerment and the building of trust. Not all communities will be as conflict-ridden as Palm Island or Redfern, and there is some anecdotal evidence that liaison officers can be effective where they are accepted by local populations, and where they have the skills and are allowed the autonomy to engage in grass roots relationship building (see NSW Ombudsman 2005). However, in more troubled locations, nothing less than a wider commitment to reconciliation (including, but not

6 See NSW Ombudsman 2005 for a more positive outlook on the role of ACLOs.

reducible to, the alleviation of socio-economic disadvantage) will break the cycle of Indigenous people directing their disaffection towards police, while police continue, either knowingly or unwittingly, to embody an imposed and contested authority.

For some sections of the Indigenous population, the building of confidence in police may be a cross-generational project. As one Indigenous commentator notes: 'You will still have the early seventies radicals that will just hate police for the rest of their lives' (Michael Mundine quoted in NSW Legislative Council Social Issues Committee 2004:9). Events since the 1970s may well have kept these sentiments alive in many quarters. The change in perceptions required from the non-Indigenous majority is equally profound: 'There is a need for a change in the way Indigenous life is viewed: not merely as a problem and a threat, but as the human manifestation of a struggling, disadvantaged sector of our community' (Morreau 2007:9). And the required 'attitudinal shifts in the policing culture' noted by the Palm Island Council present an ongoing challenge. A report by the NSW Ombudsman on the operation of the Aboriginal Justice Plan in that State quoted the following comment from an Indigenous community member about ACLOs: 'They are supposed to be a bridge but police have blown up the bridge and kept the ACLO on their side' (NSW Ombudsman 2005:13).

It is now patently clear that 'bandaid solutions' such as the employment of Indigenous liaison officers to act as go-betweens cannot be expected to substitute for genuine consent to policing in areas where police legitimacy is in serious dispute. What is needed is a more comprehensive effort to build bridges, not merely to connect police and Indigenous people, but to open up a different future for all Australians. Radical peacemaking processes to restructure policing, accountability and governance have been embarked upon in other zones of post-colonial conflict (e.g., in South Africa (Brogden & Shearing 1993; Marks 2000) and Northern Ireland (Shearing 2001; McEvoy 2003)). It remains to be seen how many more needless deaths will occur, and how much more retaliatory destruction may take place, before a prospect as radical as this could be contemplated in this country.

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