

BY: ATsIA

**Submission to House of Representatives Inquiry into the
High Level of Involvement of Indigenous Juveniles and
Young Adults in the Criminal Justice System**

From July 2007 in Queensland under 25 learner drivers must accumulate 100 hours of log-booked accompanied driving experience prior to being eligible to sit the Provisional Driver test. This has increased the difficulties marginalised youth, particularly indigenous youth, face in meeting legal licensing requirements, and accessing employment, and must inevitably increase risk-taking behaviour, with ultimate consequences of imprisonment. No provision has been made for mentor driving programmes, despite a specific recommendation made by the Parliamentary Travelsafe Committee, that programmes be part of the reforms which are directed at improving driver safety.

This submission is written in my private capacity from my experience and observations as a Magistrate living in the Townsville community since January 2003 and presiding in all courts, including Murri Court, Drug Court and Childrens Court, and circuiting to regional centres of Charters Towers, Ayr, Richmond, Hughenden and Ingham and the aboriginal community of Palm Island. My views do not represent those of Queensland Magistrates.

My submission is related to the following aspects of the Terms of Reference:

- Any initiatives which would improve the effectiveness of the education system in contributing to reducing the levels of involvement of Indigenous juveniles and young adults with the criminal justice system;
- The effectiveness of arrangements for transitioning from education to work and how the effectiveness of the 'learn or earn' concept can be maximised;
- Best practice examples of programs that support diversion of Indigenous people from juvenile detention centres and crime, and provide support for those returning from such centres;
- The scope for the clearer responsibilities within and between government jurisdictions to achieve better co-ordinated and targeted service provision for Indigenous juveniles and young adults in the justice system;
- The extent to which current preventative programs across government jurisdictions are aligned against common goals to improve the health and emotional well-being of Indigenous adolescents, any gaps or duplication in effort, and recommendations for their modification or enhancement.

My focus is predominantly on the impact of the driver licensing laws introduced in Queensland, which commenced in July 2007¹. I note from the transcripts of the hearings of the Standing Committee, that this issue has been touched on, however not in the detail which I am able to contribute. My purpose is to highlight the issue,

¹ Part 3AA Transport Operations (Road Use Management-Driver Licensing) Regulation 1999

provide some technical information, and to suggest some initiatives which might be adopted to partly alleviate/address the situation.

The Queensland legislation creates a comprehensive scheme designed to reduce the road toll by imposing restrictions on youthful drivers (under 25 years), and for the purposes of this submission, requiring them to gain 100 hours of log-booked supervised driving experience prior to gaining their provisional licence. Every hour of driving school lessons up to ten hours is the equivalent of 3 hours however the remaining 70 hours must be by supervised driving, irrespective of whether via a driving school or private arrangement.

The area covered by Townsville Magistrates Court is characterised by a minimal public transport network, and the need to travel long distances between centres to access government and other services. Townsville is the major centre servicing this region and is the largest city outside the capital of Queensland, Brisbane. Townsville has a population of approximately 170,000 people². There is a RAAF Base, Australian Army Base, Police Academy, regional offices of both State and Federal Government Departments, as well as a tertiary hospital³, medical and dental specialists, major schools both public and private including boarding schools, TAFE College and a University. It is a major port. There is significant residential development taking place in the area, and many large companies have regional offices based in Townsville servicing development and the mining and other industries.

Employment for many people without skills, particularly in the small towns, is problematic and seasonal. It is mostly unskilled work being primary industry-based, including mango, banana and vegetable picking, sugar planting and harvesting, fishing, meat processing and aquaculture and metals processing. Others have been fortunate enough before the GFC to have had lucrative labouring work in the mining industry, which is dependant on world demand, and is currently in decline. Most of this employment requires the workers to travel to sites where the work is available seasonally, and no public transport is available for this purpose. Even the public bus service in Townsville is limited and not a realistic option for those working in industries on the outskirts or needing to travel outside conventional business hours. As an example, the bus from where I live approximately 10 kms from the Townsville city centre, does not arrive in the city until 8.55am. It is not a practical option for workers. There is no bus earlier.

A driver's licence is therefore an essential requirement for employment, not just for those employed in the transport industries.

As is well known, ATSI people face difficulties additional to most in the wider community, including poor health, overcrowded housing, high mobility and transience due to family and cultural commitments, lower levels of education, school retention and literacy, and higher rates of incarceration. Many live in remote communities reliant entirely on private vehicles for transport. There is rarely a mechanic in the community to maintain vehicles. Roads are almost invariably dirt, with a limited road network. There are no driving schools. Food, fuel and other

² www.townsville.qld.gov.au/resources/4274.pdf (viewed 18.7.09)

³ http://www.health.qld.gov.au/wwwprofiles/tville_tville_hosp.asp#services (viewed 18/7/09)

necessities are more expensive as they must be transported long distances. These conditions even apply on Palm Island, a 20 minute flight from Townsville.

An excellent discussion of the issues facing ATSI people in remote communities as a result of transport disadvantage is contained in the paper authored by Graham Currie and Zed Senbergs entitled 'Indigenous Communities'. No Way to Go.⁴ The report cites the report by the NSW Aboriginal Transport Network (2006), which notes that 'Isolation from services can also occur in an urban setting'. This is squarely the situation in North Queensland.

In my experience in the Magistrates Court, ATSI persons charged with driver licence offences (e.g. driving unlicensed, driving while disqualified) have commonly never held a driver licence.

In most middle-class families, it is a given that every 16 year old will get their Learner Driver Licence shortly after that birthday, and notwithstanding that the burden is great, complete the mandatory 100 log-booked hours within 12 months, and the Driving Test, and gain their provisional licence. I have completed this exercise myself with my daughter. It is very onerous, even with 2 licensed drivers in the family, two cars and ample commitment. There is much groaning and sighing about the new rules requiring 100 log-booked hours, but it is not insurmountable. There is also much hinting that people are "fudging" the logbooks.

In NSW, 125 supervised hours must be log-booked. In WA, 25 hours are required, after the learner driver passes the Practical Driving Test, which assumes professional driving instruction. SA requires 50 hours to be log-booked while Victoria mandates under 21 novice drivers to gain 120 log-booked hours. In Tasmania 50 hours are required, however this is likely to be increased in the near future.

Legal Consequences of Unlicensed Driving in Queensland

Adults:

It is unlawful to drive a motor vehicle without a current licence. The penalty⁵ for the first offence does not include mandatory disqualification. It is mandatory for the court to disqualify an unlicensed driver for 1 to 6 months, if they repeat the offence within 5 years.⁶ If the disqualified driver drives during the disqualification period, a mandatory disqualification period of 2 to 5 years applies, as well as a maximum penalty of 60 penalty units or 18 months imprisonment.⁷

Driving whilst disqualified is regarded as a category of contempt of court, and a second offence, particularly within a short time, even when not accompanied by any offence involving alcohol, is regularly punished by imposition of a prison term, if not actual, then suspended. If imprisonment is ordered to be served, the offender can be

⁴ Currie, Graham; Senbergs, Zed. 'Indigenous communities'. No Way to Go. 2007. Monash University ePress: Victoria, Australia. <http://www.epress.monash.edu.au/>. 9.1-9.2
DOI:10.2104/nwtg0709

⁵ 40 penalty units (1p.u.= \$100) or maximum 1 year imprisonment. s. 78 (1)(b) Transport Operations (Road Use Management) Act 1995 (Qld)

⁶ s. 78(3)(h) Transport Operations (Road Use Management) Act 1995 (Qld)

⁷ s. 78(1)(a) and s 78(3)(a) Transport Operations (Road Use Management) Act 1995 (Qld)

released to parole the same day or ordered to serve usually one third of the term, to be subject to parole supervision for the remainder of the term.

The vehicle driven by a repeat unlicensed driver is liable to impoundment for 48 hours for the first offence, 3 months for the second, and forfeiture for the 3rd offence, irrespective of who is the owner. An option exists for the driver to be ordered to perform community service in lieu of 3 month impoundment or forfeiture, if the owner is not the driver.⁸ At the conclusion of the impoundment period, many owners cannot afford to pay the towing yard storage fees to recover the vehicle, and it is effectively forfeited.

Youthful offenders

There are many traffic offences which when committed by adults (17 years and over) attract mandatory licence disqualification, for example:

- second and subsequent unlicensed driving committed in a 5 year period (1-6 months),
- drink driving (min 1 month but min 3 months for under 25 provisional or learner licence holders or unlicensed drivers),
- driving after a court has imposed a licence disqualification (2 years min) and
- dangerous operation of a motor vehicle (6 months min).

This list is not exhaustive.

Young offenders also come before the courts regularly for offences of this nature, however the Juvenile Justice Act 1992 (Qld) gives the sentencing court discretion not to disqualify young offenders for such offences, particularly where no conviction is recorded.

S.2 of the JJ Act sets out the objectives of the Act. Ss. 2 (d) and (e) highlighted below are particularly relevant in this context.

2 Objectives of Act

The principal objectives of this Act are--

(a) to establish the basis for the administration of juvenile justice; and

(b) to establish a code for dealing with children who have, or are alleged to have, committed offences; and

(c) to provide for the jurisdiction and proceedings of courts dealing with children; and

(d) to ensure that courts that deal with children who have committed offences deal with them according to principles established under this Act; and

⁸ Police Powers and Responsibilities Act 2000 (Qld) Chapter 4

(e) to recognise the importance of families of children and communities, in particular Aboriginal and Torres Strait Islander communities, in the provision of services designed to--

(i) rehabilitate children who commit offences; and

(ii) reintegrate children who commit offences into the community.

S 149 of the Juvenile Justice Act prevails in spite of the mandatory licence disqualification provisions in the Transport Operations (Road Use Management) Act 1995 and the Criminal Code, and creates the discretion which permits the court not to impose licence disqualification. It is important to note that this section obliges the court to sentence the child under this part, rather than under the legislation creating the offence, or the Penalties and Sentences Act. The Juvenile Justice Act creates a completely separate sentencing regime for youthful offenders, from the regime that exists for adults.

149 Jurisdiction to sentence child exclusive

(1) A court that sentences a child for an offence must sentence the child under this part.

(2) Subsection (1) applies despite any other Act or law.

150 Sentencing principles

(1) In sentencing a child for an offence, a court must have regard to--

(a) subject to this Act, the general principles applying to the sentencing of all persons; and

(b) the juvenile justice principles; and

(c) the special considerations stated in subsection (2); and

(d) the nature and seriousness of the offence; and

(e) the child's previous offending history; and

(f) any information about the child, including a pre-sentence report, provided to assist the court in making a determination; and

(g) if the child is an Aboriginal or Torres Strait Islander person--any submissions made by a representative of the community justice group in the child's community that are relevant to sentencing the child, including, for example--

(i) the child's relationship to the child's community; or

(ii) any cultural considerations; or

(iii) any considerations relating to programs and services established for offenders in which the community justice group participates; and

(h) any impact of the offence on a victim; and

(i) a sentence imposed on the child that has not been completed; and

(j) a sentence that the child is liable to have imposed because of the revocation of any order under this Act for the breach of conditions by the child; and

(k) the fitting proportion between the sentence and the offence.

(2) Special considerations are that--

(a) a child's age is a mitigating factor in determining whether or not to impose a penalty, and the nature of a penalty imposed; and

(b) a non-custodial order is better than detention in promoting a child's ability to reintegrate into the community; and

(c) the rehabilitation of a child found guilty of an offence is greatly assisted by--

(i) the child's family; and

*(ii) opportunities to engage in educational programs and employment; and
(d) a child who has no apparent family support, or opportunities to engage in educational programs and employment, should not receive a more severe sentence because of the lack of support or opportunity; and*

(e) a detention order should be imposed only as a last resort and for the shortest appropriate period.

(3) In sentencing a child for an offence, a court may receive any information it considers appropriate to enable it to impose the proper sentence or make a proper order in connection with the sentence.

(4) If required by the court for subsection (1)(g), the representative must advise the court whether--

(a) any member of the community justice group that is responsible for the submission is related to the offender or the victim; or

(b) there are any circumstances that give rise to a conflict of interest between any member of the community justice group that is responsible for the submission and the child or victim.

(5) In this section--

child's community means the child's Aboriginal or Torres Strait Islander community, whether it is--

(a) an urban community; or

(b) a rural community; or

(c) a community on DOGIT land under the Aboriginal Land Act 1991 or the Torres Strait Islander Land Act 1991.

community justice group, for a child, means--

(a) the community justice group established under the Aboriginal Communities (Justice and Land Matters) Act 1984, part 5, division 1, or Community Services (Torres Strait) Act 1984, part 5, division 1, for the child's community; or

(b) a group of persons within the child's community, other than a department of government, that is involved in the provision of any of the following--

(i) information to a court about Aboriginal or Torres Strait Islander offenders;

(ii) diversionary, interventionist or rehabilitation activities relating to Aboriginal or Torres Strait Islander offenders;

(iii) other activities relating to local justice issues; or

(c) a group of persons made up of the elders or other respected persons of the child's community.

These sections must be read together with s 184, which sets out the matters to be considered in relation to the recording of a conviction, and s 254, which specifically deals with disqualification of such offenders.

The disqualification of a licence only becomes mandatory (for appropriate offences) where a conviction has been recorded (s.254(3)).

184 Considerations whether or not to record conviction

(1) In considering whether or not to record a conviction, a court must have regard to all the circumstances of the case, including--

(a) the nature of the offence; and

(b) the child's age and any previous convictions; and

***(c) the impact the recording of a conviction will have on the child's chances of--
(i) rehabilitation generally; or
(ii) finding or retaining employment.***

(2) Except as otherwise provided by this or another Act, a finding of guilt without the recording of a conviction is not taken to be a conviction for any purpose.

*(3) A finding of guilt against a child for an offence without the recording of a conviction stops a subsequent proceeding against the child for the same offence as if a conviction had been recorded.*⁹

Judge John Robertson, former President of the Childrens Court of Queensland, has regularly pointed out that the major issue for that court reviewing sentences imposed on young offenders by Magistrates, is the recording of a conviction. In his decision in *In the matter of DRH BES & TKL (CSM 16/2000)* he reiterated that the recording of a conviction was not a matter to be lightly undertaken.

There is little binding authority in relation to the disqualification of licences for juvenile offenders. Examination of the criminal and traffic histories makes it clear that it is not common practice for the higher courts to order licence disqualification, in comparison with the practice of Magistrates. In my experience it is rare for legal representatives to make submissions on this subject.

The comments of Judge Robertson in *R v. Tierney (unreported 08.07.99)* sitting as court of review of a decision of a magistrate, are helpful when considering this question. The defendant (15 yrs) was charged with 2 counts of Unlawful Use of a Motor Vehicle and one count of Stealing - sentence - 120 hours Community Service-conviction recorded-licence disqualified 2 years.

RESULT ON REVIEW Conviction not recorded - disqualification set aside – 120 hours community service upheld.

Judge Robertson said "*As far as the disqualification order is concerned, I must admit I cannot understand any basis for making such an order in relation to a 15 year old. Apart from an earlier conviction, the circumstances of which are unknown to me, no material was apparently placed before the Magistrate to suggest that this applicant had a previous traffic history and there seemed no basis at all for making the order under section 194.(as it then was: now s 254) For my own part, I have found it to be only in the very rare cases, particularly in relation to offenders very close to the age of 17, to make an order under s.194 (now s 254)*"

253 Application of Transport Operations (Road Use Management) Act 1995 generally

(1) Subject to this Act, the provisions of the Transport Operations (Road Use Management) Act 1995 apply in relation to a child as they apply in relation to an adult.

(2) For this purpose--

⁹ The emphasis is the author's

- (a) a reference in the Transport Operations (Road Use Management) Act 1995 to a Magistrates Court or justice is taken to include a reference to a Childrens Court magistrate; and
- (b) a reference in the Transport Operations (Road Use Management) Act 1995 to a clerk of a Magistrates Court is taken to be a reference to a clerk of a Childrens Court.

254 Disqualification

(1) In this section--

disqualified means disqualified from holding or obtaining a driver's licence.

(2) If--

- (a) a child is found guilty of an offence under the Criminal Code, Transport Operations (Road Use Management) Act 1995 or another Act; and
- (b) were the child convicted of the offence as an adult the child would be liable to be disqualified on the conviction whether under the Criminal Code, Transport Operations (Road Use Management) Act 1995 or another Act;
- the child is also liable to be disqualified to the same extent.*

(3) If--

- (a) a child is found guilty of an offence under the Criminal Code, Transport Operations (Road Use Management) Act 1995 or another Act; and
- (b) a conviction is recorded; and
- (c) were the child convicted of the offence as an adult, the child would be disqualified by the conviction by operation of law;
- the child is also disqualified to the same extent.*

(4) Subject to subsection (6), the Transport Operations (Road Use Management) Act 1995, section 82 applies in relation to a child found guilty of an offence under section 79 of that Act and, for this purpose, a mention in the section of a conviction includes a finding of guilt.

(5) Subject to subsection (6), the Transport Operations (Road Use Management) Act 1995, sections 89 and 90 apply in relation to a child acquitted of a charge of an offence.

(6) Subsections (4) and (5) apply only if the child is of an age when persons generally are eligible to obtain a driver's licence.

When one looks at the obstacles facing defendants with special difficulties such as literacy, numeracy, language and limited attention span together with the local circumstances such as distance from major centres, limited or complete lack of transport - private or public, and very limited employment opportunities, it seems that the disqualification of a licence may in many circumstances be inconsistent with the principles of juvenile justice as set out in the Act.

Each case has of course to be judged on its merits and there will arise from time to time a set of circumstances where a court will have no alternative but to make the disqualification order.

Incidence of Driver Licensing Offences

According to the Australian Bureau of Statistics figures released on 25.2.09¹⁰:

Vehicle or traffic offences represented nearly half (45%) the 565,800 adjudicated defendants finalised in the Magistrates' Courts in 2007/08; 33% were for driving licence offences, 25% for exceeding the prescribed content of alcohol and 12% for speeding - increases of 20%, 4% and 16% on the previous year respectively.

Nearly a third of defendants (29%) with traffic offences were aged under 25, while people over 45 were more likely to be charged with speeding than those under 25 (19% and 8% respectively).

Men accounted for three times as many defendants charged with road traffic offences than women.

Overall, vehicle or traffic offences have risen by 25% over the last five years, with the largest increase being for driving licence offences which have more than doubled (up 61%) in that time.

For juvenile offenders in Australia:

Adjudicated defendants with robbery and extortion and road traffic/motor vehicle offences increased by 23% and 11% from 2006-07.

Thus, the number of Australian adult offenders (in Queensland, 17 year olds and above) convicted of driver licence offences in the year following the introduction of the mandatory learner driver hours has increased by 20%.¹¹ The figures for youthful offenders are not available for this period, nor do the statistics distinguish between ATSI and non-ATSI drivers.

Mentoring Programmes for Youthful Drivers in Australia (as at July 2009)

Most States including Queensland recognise that not every young person will be able to accumulate the mandatory supervised driving experience¹², however unfortunately

¹⁰ <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4513.0Media%20Release12007-08?opendocument&tabname=Summary&prodno=4513.0&issue=2007-08&num=&view=> (viewed 24.7.09)

¹¹ In Queensland, driving licence offences include Unlicensed driving, Driving unaccompanied on a Learner Driver Licence, Driving whilst disqualified, Driving whilst licence suspended for unpaid fines (SPER suspension), Driving on expired licence, Driving whilst licence suspended for accumulation of Demerit points

¹² Travelsafe Committee of the 50th Parliament (Queensland) Novice Driver and Rider Inquiries, Conclusions and Recommendations from Report No 40 and Report No. 41, December 2003 p 3 Recommendations to Report No 40, Reducing the Road Toll for Young Queenslanders – is education enough? :

11. That Queensland Transport provide resources to assist schools and community groups establish driver mentoring programs based on the Driver Experience Enhancement Program (DEEP) developed by the St Mary's College Parents and Citizens Association in Toowoomba to provide learner drivers with greater access to supervised driving experience.

And at p43 of Report No 40:

there is no coordinated national, nor in the case of most States, State approach to assisting these drivers.

Ad hoc programmes to assist migrants and refugees have been established in some communities.

There are a number of schemes to assist disadvantaged persons to obtain their learner licence, e.g. Barrier Reef TAFE in Townsville, including on Palm Island campus, and Indigenous Driver Licensing Unit, a mobile testing unit that visits some Queensland aboriginal communities, concentrating on Cape York. Neither of these includes any component that assists learners to convert the learner driver licence to a provisional licence.

The National Road Safety Action Plan 2009 and 2010, approved by Ministers of the Australian Transport Council (ATC) in November 2008¹³ sets out the major areas in which action is required in 2009 and 2010. In the case of novice drivers, it reinforces the necessity of extensive supervised experience before solo driving is permitted, and that community and industry participation is required, in relation to the graduated licensing initiatives. It proposes the monitoring of the implementation and effects of the various graduated licensing provisions introduced in Australian jurisdictions, however the Plan makes no reference to mentoring programmes nor any initiatives to assist novice drivers to gain that supervised experience.

Roads and Traffic Authority NSW (RTA) Centre for Road Safety has produced a brief booklet Guidelines for community-based learner driver mentor programmes¹⁴, which identifies the issues that need to be addressed when setting up such programmes, including:

- Assessing community need
- Target Group
- Source of Mentors
- Source of Funding
- Setting up the programme
- Evaluation

There is however no formal network of mentoring programmes in NSW.

185. Participants at the committee's young driver forums commented on the difficulties of gaining supervised pre-licence driving experience due to competing demands on their time, plus the time of parents to supervise them, the difficulties of balancing school and driving practice commitments and problems gaining access to a vehicle. Participants at regional forums from rural areas commented on the difficulties they experienced while trying to access professional driving instructors.

s. 14AI Transport Operations (Road Use Management - Driver Licensing) Regulation 1999 (Qld) Exemption from Logbook Requirements

¹³ http://www.atcouncil.gov.au/documents/actionplan_0910.aspx (viewed 24.7.09)

¹⁴ <http://www.rta.nsw.gov.au/roadsafety/downloads/mentorprogram.pdf> (viewed 22.7.09)

The only program I am aware of in NSW¹⁵ is one run by Oasis, a Salvation Army based Youth Service in the Inner City of Sydney. The program is called "Drivin 4 Employment". It is mainly funded by the City of Sydney Council which contributes \$40,000 per year and has purchased two dual control cars and pays for all running costs except insurance (covered by Oasis). The Department of Community Services contributes funds which together with Council pays for a full time driving instructor, who was specially recruited for the job (and his driver instructor training was also paid for). As part of the DOCS funding the driver is to work the equivalent of one day per week working with young people who are in out of home care (ie "wards" in the old language).

Under the program a young person without his/her Learner Licence is referred and attends pre-Learner training. When they are ready they sit for the knowledge test and receive their Learner Licence. The instructor then spends as many hours as necessary with the driving instructor to be competent (around 10 hours typically). The learner can then go with a volunteer/mentor to gain the bulk of their hours and continues to see the instructor about once a month. Once the hours are close to complete the student then completes several more intense lessons with the instructor to prepare for the driving test. The Instructor actually takes them to the RTA for their test (just like a parent would do).

The only part not really working at this stage is the volunteer part. The program currently has a small handful of volunteers but there is a need for many more. Local Children's Drug Court Magistrate Hilary Hannam is supporting the initiative by assisting in approaching organisations such as Rotary. Currently the program only caters for unemployed youth that live within the city of Sydney but the organisers would ideally like to expand it. To do that they need more volunteers, some additional funding, more vehicles (non-dual control for the volunteers) and a place to park and store them. It is at this stage in its infancy.

In Victoria one scheme, L2P¹⁶, has been established in Geelong. Volunteers are required to undertake a programme devised by Vicroads, to ensure they have the requisite skills to enable them to mentor the novice driver. The programme assists disadvantaged youth to gain the mandatory driving experience.

National Seniors has a programme titled INSTEP (Indigenous Skills Transfer and Exchange Partnership). In March 2009 National Seniors advertised in the national newsletter¹⁷ for volunteers to assist people in the Aboriginal community of Mungullah, near Carnarvon in Western Australia, to get their driver licence. The vehicles would be supplied by the community. To date no volunteers have been engaged, as those who did volunteer required accommodation, which the community has no capacity to provide. The words¹⁸ of Wayne Gibbons (former CEO) Mungullah Community Aboriginal Corporation speak plainly:

¹⁵ I am grateful to Magistrate Hilary Hannam for provision of this information in July 2009.

¹⁶ http://www.youthmentoring.org.au/program_details.php?id=236

¹⁷ <http://www.nationalseniors.com.au/ebiz/content/wsc.aspx?ID=61> (viewed 27^{7.09})

¹⁸ Email addressed to the writer reproduced here with permission of Mr Wayne Gibbons, former CEO, Mungullah Aboriginal Community Corporation

we have many issues here that we suspect may be same elsewhere and want to learn. This is the wild wild west over here.

The fundamentals of this over here are pretty simple though :

- All aboriginals drive and use cars to get around outback Australia regardless of the state of road worthiness of vehicle or possession of a driver license. We have many 13 year olds for example driving long distances (400kms) on unsealed roads at speed.*
- Getting caught is the major reason for aboriginals entering the criminal justice system where crimes simply progressively then get worse as they acclimatise to gaol or in fact find things better in than out.*
- Getting caught is simply one consequence of having to get around the country and white fellas law. They have little choice.*

So teaching good driving is an investment in their future and can avoid many other crimes.

We studied the \$28000 worth of outstanding sheriffs fines in our community :

- 1. 90 % of aboriginal people here who have outstanding sheriffs fines are because of driving offences. The rest are unpaid fines associated with domestic violence, theft and assault typically.*
- 2. The reason fines escalate and get to the sherrif is that aboriginal people either :*
 - a. Due largely to low literacy do not understand fine notices so do not attend court or pay fines*
 - b. Due to avoidance or shame do not attend court*
 - c. Do not have the means to pay fines once they escalate so avoid the issue.*
- 3. Of driving fines 20% relate to seat belt offences where families do not ensure their kids wear seat belts resulting in multiple fines per apprehension. Ie: family of 6 with 4 little ones not in seat belts is 4 offences in one go. Note that we seem to have a high number of aboriginal people dying by simply coming out of moving vehicles at speed....usually alcohol and no seat belt is involved but for males it seems suicidal or irrational thoughts can lead to deliberate jumps. Women seem an unfortunate side effect of speed, alcohol and not wearing seat belts.. Of the rest 50% are driving without a license and 30% alcohol.*

If we assume we can assist more getting a proper licence, particularly from school, we should be able to have a significant impact on all of these.

No license is their entry to crime :

Other statistic we have seen is that 80% of youngsters and men that go to gaol have had their life of crime begin with an arrest for driving without a license so it appears that driving offences is their introduction to crime. From there nothing much matters.

It is almost normal for them to accept that driving illegally is part of life for them and getting caught is merely an expected consequence of doing something they have to do. Get around.

Driver training must follow learners :

Another thing we found was being well meaning caused more harm than good. That is we put 13 people through getting their learners only to find 100% caught over the next 3 months driving on L's solo. The reason was :

a. They could not afford lessons

b. No licensed drivers were prepared to take them out to get experience

c. Family and friends who were alcohol effected often forced or made them drive to the bottle shop. They felt they could not refuse.

Teaching school age kids is a must, then housewives and men who are not already ineligible to drive.

This will help close Kevin's "GAP".

PS: We still have not solved the problem at all and not one of our learners has got their license. Not one.

Tasmania puts the rest of the nation to shame.

The Tasmanian Department of Infrastructure Energy and Resources has published a comprehensive kit, Learner Driver Mentor Programs, Putting Learners in the Driver's Seat, A Resource Kit for Planning, Operating and Maintaining Learner Driver Mentor Programmes in Tasmania¹⁹, in February 2009. This is a comprehensive resource, and is available as one blueprint for the establishment of programmes.

In Tasmania a coordinated network of learner driver mentoring programmes is operating under the Community Road Safety Partnerships (CRSP) Program implemented by the Department of Infrastructure, Energy and Resources (DIER). Partnerships with local government authorities and associated community networks have been created, to achieve a greater focus on road safety outcomes at a local community level. The following LDMP (Learner Driver Mentoring Programmes) were reported to be operating as at March 2009:

TOP Gear (Brighton), TOP Gear (Migrant Resource Centre, South), TOP Gear (Claremont College), Ready Set Go (Rokeby), BReady (Sorell), Gearing Up (Huon Valley), Wheels4work (Launceston) and Drive4Life (Migrant Resource Centre, North).

Interest for the LDMP is high in other communities.

Planning for two new LDMPs is well advanced in the Kentish and Break O'Day municipalities.²⁰

The Commonwealth Government is piloting a \$A17 million programme designed to eventually provide one²¹ free instruction session to 200,000 learner drivers and their supervisors/mentors. This programme is designed to also encourage improved standards of commercial driver instructors by accreditation. The programme,

¹⁹ <http://www.transport.tas.gov.au/safety> (viewed 22.7.09)

²⁰ http://www.transport.tas.gov.au/safety/community_road_safety_partnerships Learner Driver Support Programmes pdf.

²¹ http://www.minister.infrastructure.gov.au/aa/releases/2008/May/AA037_2008.htm
<http://www.keys2drivepilot.com.au/> (viewed 22.7.09)

“keys2drive”, is being piloted in Tasmania.²² The proposed scheme however does not include any proposal for establishing mentoring programmes for those who do not have access to a mentor, and assumes that the learner driver is partnered with a mentor.

Queensland Transport has an Indigenous Driver Licensing Programme (IDLP)²³ which is a mobile driver testing and driver licence renewal programme, visiting remote communities in Cape York, however it has no capacity to mentor learner drivers. It does adopt a modified testing procedure for low literacy learners, adapted for remote community conditions, where most of the features present in cities, including sealed roads, traffic lights and signs, are unknown.

Associated with IDLP, is an initiative of the Aurukun Local Partnership Programme, auspiced by the Department of Communities (Qld). A task of the Youth Engagement Officer in the community is to assist youth to obtain evidence of identity documents, including Birth Certificate and Medicare Card, as a precursor to obtaining the Learner Licence. The departmental car is used to give them 2 hours’ practical driving experience, and community police are able to accompany learners using the vehicle. The local manager of the Dept of Communities is a seconded Queensland Police Officer, familiar with community issues. The office also assists disqualified drivers make application for the removal of Absolute Disqualifications imposed when that penalty was mandated for all offenders convicted of driving whilst disqualified. The manager was unaware when I spoke to him, of the legislative exemption from logbook requirements, available to drivers who have no supervisor, no vehicle or reside in an area without a comprehensive road network, precluding them from achieving the mandatory log-booked hours.²⁴

It appears that the information and associated application form may not be disseminated by Queensland Transport in some remote areas where it may be applicable. Staff including the Registrar of the Magistrates Court in Mt Isa, from which circuits to the remote communities of Mornington Island, Normanton, Doomadgee and Burketown are coordinated, told me in February 2010 that they were unaware of the exemption, and had never seen the application forms.

Enterprise Management Group, a private sector service provider contracted to work in indigenous communities provides some learner driver assistance as part of the Job networks working with unemployed people. Issues identified include lack of a road network particularly on Torres Strait islands (e.g. York Island has one main road from the village to the jetty, a journey of little more than 2 minutes) .

In South Australia, where the mandatory requirement is 50 hours (including 10 hours night-driving), SGIC Insurance waives the young driver age excess on its comprehensive insurance policies for learner drivers involved in a collision, providing

²² http://www.aaa.asn.au/publications/media_releases.php?action=view&media_releaseld=391 (viewed 24.7.09)

²³ http://www.transport.qld.gov.au/Home/Licensing/Indigenous_driver_licensing_program/ (viewed 22.7.09)

²⁴ Thanks to Andrew Clarkson, Department of Communities (Qld) Aurukun for the provision of this information.

they are accompanied by a fully licensed driver aged 29 years or older, to encourage additional supervised driving.²⁵ The provisional licence is obtainable at 16.5 years.

As at July 2009, the programmes I have described above are the only ones I have been able to locate, that could possibly be accessed by aboriginal learner drivers. There are a few others which assist refugees and newly arrived migrants, however they are significantly stretched due to demand and lack of resources.

Learner Driver Initiatives in Townsville (without practical driving)

- Drive 4 Life

This is a Queensland Studies Authority Accredited course, designed to be delivered in years 10, 11 and 12 in schools and in the community. (It is presently undergoing a name-change, as the name “Drive 4 Life” is not available) It was designed by Catholic Education Office Townsville and developed in partnership with Queensland Transport, with a particular focus on the needs of indigenous students and communities. It does not include practical driver training. In the course of their study, students develop a full suite of important identification documents and their tax file number, and undertake projects designed to enable them to function as fully equipped law-abiding citizens. They engage with community organisations including RACQ (automobile association), ambulance, police, firefighters and the like, and learn about the pitfalls of buying a car. They learn road safety, and may attain their Learner Driver Licence when they become eligible. This programme was a runner up in 2008 in the CARRS-Q Road Safety Awards. Townsville Catholic Education delivers regular training sessions to teachers from both public and private schools and TAFE to teach the course. This subject was extensively trialled by Catholic Education at Abergowrie College outside Ingham, which is the closest boys boarding school to Palm Island, and has high numbers of indigenous boarders. I am unaware of whether it is yet delivered in remote communities, however it has the capacity to address the first two of the Terms of Reference I have chosen to address (improving the effectiveness of the education system, and transitioning from education to work).

- Learner Driver’s Permit Coaching Course²⁶

This low literacy learner driver course is delivered by Barrier Reef TAFE in Townsville, specifically to meet the needs of learners who have literacy barriers. Hundreds of people have been assisted to gain their learner driver licence, in Townsville and on Palm Island. The course has no capacity to give practical driver training.

- Cleveland Youth Detention Centre²⁷

Teachers at the youth detention centre based in Townsville, deliver low literacy learner driver training in the road rules, and techniques for passing the Queensland Transport Learner Driver test. They are unable to deliver a practical driving

²⁵ <http://www.sgic.com.au/about-us/media-releases/20070701-a.shtml> (viewed 23.7.09)

²⁶ http://www.barrierreef.tafe.qld.gov.au/courses/course_guide/education.html

²⁷ Thanks to Associate Professor Glenn Dawes Assoc Professor of Sociology & Criminology, James Cook University Townsville for this information.

component, and are very concerned at the difficulties faced by youthful offenders in converting the Learner Driver Licence to a Provisional Licence, given the barriers they face including gaining identification on their release from custody, the absence of an adult to accompany them to Queensland Transport to obtain the licence, accessing a qualified driver to mentor them, and a roadworthy vehicle and fuel. If they are disqualified by court order, they are not eligible to sit the Learner Driver test, and the teachers find that those young people are not motivated to undertake the study and learn the road rules, as they have little prospect of becoming licensed in the foreseeable future. Many of these young offenders are from remote ATSI communities. Funding is currently being sought for an evaluation of the programme, planned to include following up and reporting on the progress of the students and most particularly, how many of them succeed in converting the Learner Licence to Provisional Driver Licence. The programme won a 2004 CARRS-Q Road Safety Award.

The materials used require further development to update them and adapt them further for low literacy learners, e.g. terminology such as “parallel” is still inaccessible for these students.

Unless they are mentored to acquire the mandatory driving experience, these young learners are likely to drive unaccompanied, or unlicensed, and be subject to the adult penalties of eventual disqualification and inevitable imprisonment for repeat driving. If they can gain work it will be most likely in the industries detailed at the start of this paper which are not serviced by public transport. This increases the likelihood of their driving unlawfully.

The Drive 4 Life Programme is also taught at Cleveland, however as it is a 3 year course over years 10 to 12, the course is usually interrupted by the student offenders’ movement out of custody, so it is difficult to deliver it consistently to derive the full benefit from it.

Leighton Contractors runs a programme via Townsville State High Schools giving a package of 5 professional driving lessons to a number of interested and eligible students. This programme continues in 2010.

Mentoring of L Drivers in Townsville: Keys to a Future

Queensland Youth Services Inc. (QYS)²⁸²⁹, a non-government, not-for-profit, community based organisation, launched a learner driver mentoring pilot programme in February 2009.

²⁸ The **vision statement** of Queensland Youth Services is:

- to work with and for young people to access existing options and opportunities and to promote their well being
- to act as a catalyst to recognise and challenge structural inequalities with the aim of social change and the empowerment of young people
- to develop with young people a sense of self respect, dignity, belonging and purpose and value in themselves and the community

²⁹ <http://www.qldyouthservices.org.au/> (viewed 23.7.09)

QYS has worked with marginalised and disadvantaged youth aged 12 to 25 years in Townsville and surrounding regions since 1978. It provides a range of programmes including:

- Youth Support Coordinator Program
- Reconnect Program
- Young Parents Programs
- Munchkins Play Group Program
- PPOSSIBLEE Program ("Providing Parents with Opportunities for Support & Self Sufficiency in Building Links to Employment & Education")
- Get Set for Work Program - Townsville and Ingham
- 'Keys to a Future' Learner Driver Mentoring Program
- Certificate II in Hairdressing - Cut Above Youth Employment - Productivity Places Program (PPP)

Within its client base, QYS identified a number of issues –

1. High accident rates among young drivers
2. High levels of incarceration (particularly among indigenous youth) for driving related offences.
3. High levels of unlicensed driving (particularly in rural and remote communities)
4. Frequency of dangerous driving practices among youth
5. Low self-esteem, disengagement and limited employability options of young people

The basic need for a driver licence to enable access to employment, education and other services is obvious. QYS was able to assist clients to achieve their learner driver licence before the introduction of the mandatory driving hours, however most clients had neither access to a vehicle nor to an appropriately licensed supervising driver, to enable them to achieve the mandatory 100 hours of practical driving.

Keys to a Future relies on volunteer drivers who either use their own comprehensively insured vehicle, or the QYS office vehicle to enable the learner driver to undertake practical on-road experience. Volunteers initially commit to achieve 10 hours experience with the young driver initially, which may develop optionally into a greater commitment. Other features are:

Close link with Alf's Driving School which provides:

- Group instruction to mentors and additional written materials about driving and the road rules, and is available to mentors for additional telephone consultation;
- Discounted driving lessons to learner drivers in the programme. (QYS pays for up to two lessons for each learner driver);

Payment to volunteers of \$15.00 per hour contribution to vehicle costs including fuel (some volunteers do not claim);

Public liability insurance cover;

Professional indemnity insurance cover;

Payment of comprehensive insurance excess in the event of an accident in the mentor's vehicle;
Coordination by QYS resource officer, to match the learner with a suitable mentor;
Collation of statistics.

The aim of QYS has been to enlist 25 volunteer mentors to assist up to 50 learner drivers over a 12 month period to gain on-road driving experience and to expand Keys to a Future to neighbouring regions of Ingham, Charters Towers and the Burdekin, once a pool of community minded volunteers has been gained in each of these areas.

Since commencement of the programme in February 2009, 11 community volunteers have been recruited to perform the mentoring role. As this program is self-funded, all learner driver applicants have come from QYS programs. As at October 2009, 34 young learner drivers had applied for the service. As a result, one learner driver is now eligible to undertake her practical test, and over 135 on-road driving hours were registered in their log books.

Other tangible results that can accrue to participants include:

- Increased self-esteem amongst participants who feel valued;
- Relationship building between participants and mentors (particularly in the case of local police recruits from the Police Academy, partnering with vulnerable youth whom they would normally encounter in compromised situations on the beat).
- Collaboration with local service clubs such as Rotary and Lions, who are committed to community service and can gain credit for volunteer hours, and with Barrier Reef TAFE for the low literacy learner driver course. This contact can in turn lead to learners undertaking further TAFE courses.

The Department of Communities has assisted with some funding and has sponsored the program, but the bulk of funding still remains with Queensland Youth Services Inc. QYS has approached the Department of Transport, and the local Council for assistance with funding of the program, but at this stage no further funding sources have been forthcoming. The programme is extremely costly and a review is currently being undertaken. Unless external funding is obtained, the programme is not sustainable from the existing resources of QYS and will cease by 30 June, 2010. QYS is however prepared to disseminate the kit it has prepared including all necessary forms, insurance information etc to interested bodies to enable them to set up programmes. QYS has no funds with which to have the programme evaluated.

The programme was awarded the Queensland Premier's Award for Community Road Safety in October 2009 in the CARRS-Q Queensland Road Safety Awards.

My partner and I are volunteer drivers with this programme. It is a very rewarding experience to drive with these young people, and to see them develop skills and confidence.

Initiatives and barriers to increase licensing of young indigenous adults.

- Creation of a culture of philanthropy

It is unlikely that without a coordinated government campaign, a culture of volunteering will emerge, sufficient to provide every young person who wishes to learn to drive, with the opportunity. Indeed the Qld Parliamentary Travelsafe Committee which in 2003 recommended the introduction of increased safety measures, recognised this as a likely difficulty and accordingly recommended that Queensland Transport implement mentoring programmes. This is the only recommendation that has not been adopted in Queensland.

There is widespread lack of awareness in the general community of the mandatory log-booked supervised driving requirement. I have spoken to a number of service clubs whose members were most surprised to hear of it. There is a well-spring of goodwill in the community and a wish to assist young people, especially indigenous people, to gain their licences, however this resource needs to be tapped into, encouraged and organised. Retirees may be a source of volunteers. Raising of public awareness is a major factor before this can occur.

Many people feel reluctant and anxious about volunteering to drive with a learner driver and of course supervised driving by volunteers is no substitute for professional driver training by a driving school. Those who are members of service clubs and who wish to assist, could do so by e.g. sponsoring boarders or other needy students in local schools to gain driving school lessons. The cost if a pack of say 10 lessons (which in Queensland equates to 30 hours credit) is around \$600.00, a very affordable project for clubs. The club could build a relationship with these young people, similar to the relationships they develop with international exchange students they often sponsor.

There is considerable existing infrastructure in the community, such as Police Citizens Youth Clubs (PCYC), including in some aboriginal communities such as Palm Island and Mornington Island. They are in a perfect position to be resourced to include assistance to learner drivers in their programmes. Other youth organisations including church groups, and Parents and Citizens groups attached to schools, may be able with support and funding, to take on programmes. Probation and Parole services may be a valuable agency for this work.

Leadership on this immense issue would ideally come from government, and until that occurs, assistance to such drivers will remain patchy and insufficient, and the consequences costly and punitive.

It is easy to cynically dismiss philanthropy as a foundation for addressing this issue. Volunteers are however the backbone of all mentoring programmes. Government can provide the resources to enable communities to develop and harness the goodwill that exists. This is the model that is in place in Tasmania. Funds are required to employ coordinators, provide insurance cover, some petrol subsidy, and to engage with professional instructors to provide some lessons, and to prepare the mentors. It is unrealistic to assume that government will ever provide sufficient funds to enable learner drivers to accumulate the mandatory logbooked hours. It should be simple to create a project that involves identifying the existing open licence holders in a

community, and link them (possibly with some incentives) with learners to play the mentoring role.

- Insurance issues

Many potential volunteers are fearful that they may not have insurance cover, however the recent High Court of Australia decision of *Imbree v McNeilly*³⁰ should go some way to alleviating some of this concern, which in the past was significant. The Court overturned the decision in *Cook v Cook*, which had deprived supervising drivers of the right to damages for injuries sustained as the result of the driving of a learner driver. Insurance is an essential component of funding for organised mentoring programmes.

The South Australian insurance initiative referred to earlier, providing an incentive to mentors by waiving the age excess, would assist in enlisting volunteer drivers.

- Location of Licence testing and issuing agencies

On Palm Island and no doubt in other remote and regional communities, the Queensland Police service is the testing and licence issuing agency as Queensland Transport does not have a permanent presence there. Given the often difficult relationships between some community members and the police, the arrangement is almost certainly problematic for some would-be drivers. Consideration should be given to an alternate arrangement to maximise the incentive to drivers to “go legal”.

Additionally, the legislated exemption (in Queensland) from the 100 hour mandatory requirement should be made more widely known. Obviously it was created by Parliament in the knowledge that the circumstances of some drivers make it impossible to conform with the requirements. Most people I have spoken to who work for agencies in or associated with remote communities had not heard of the exemption. It would be directly applicable to many remote communities.

- Alternative methods of gaining driving experience

A Rotary Club I have spoken to in Townsville wishes particularly to give assistance to Palm Island, our neighbouring aboriginal community, however has no personal contacts with that community, in order to develop useful and meaningful projects. A member who is very concerned about the licensing issue, is currently investigating the feasibility of a simulator for driver training. He is a recreational pilot, and aware of the use of simulators in the aviation industry for pilot training. Nevertheless, even if a simulator is sourced (from the USA, funded hopefully with a Gaming Fund grant), and installed e.g. at the PCYC on Palm Island, if that is thought appropriate, no credit could currently be gained by users of the simulator, as satisfaction of the logbook requirement may be only by “supervised driving in a car on a road in Australia”. This may deter many learners from using the opportunity to gain this type of experience. It may be of assistance to aboriginal communities if this type of driver training were permitted to be used to gain a portion of the mandatory supervised driving experience.

³⁰ [2008]HCA 40

- Remote area restricted driver licence

In Western Australia the issue of lack of transport, inaccessibility of driver licensing opportunities and the consequential criminal consequences (including prohibitive fines and where payment of fines is not realistic, inevitable imprisonment) has been the subject of notice and recommendations by the Western Australian Law Reform Commission for the development of a limited licence, to enable vehicles to be used by otherwise unqualified drivers for transport purposes where there is no other alternative in remote communities.³¹ In the period from 1 March 2008 to 28 February 2009, a total of 6,023 warrants for imprisonment were executed in the State for a total of 6,610 offences (including fine default) on 2203 individuals for the offences of Driving Under Suspension, no Motor Driver's Licence (MOL) (suspended), failure to hold a valid MOL or no MOL. Of those individuals, 46 per cent (1,022) were Aboriginal people.³² The discussion preceding Recommendation 13 (for extraordinary licences) in Chapter 5, Aboriginal Customary Law and the Criminal Justice System, of the Final Report of the Law Reform Commission (WA), published in 2006, usefully addresses the grave difficulties faced by persons in remote communities where licensing is problematic³³.

I am unaware of any steps to implement the recommendation for the issue of licences to address these problems, however it could be a valuable contribution to the improvement of the conditions of remote communities including in Queensland where conditions are little different. There are two categories of driver to be considered here, both learners and holders of licences who have been disqualified from driving for driving offences. Consideration will need to be given to the process for upgrading such a licence, in the case of a learner, to a full licence in due course.

- Targeting students from remote communities in boarding schools

Many young people from remote communities undertake their secondary education (post year 7) in boarding schools in major centres away from their communities. Some receive assistance at school to attain their Learner Driver Licence³⁴. I chose in 2009 to drive with a year 12 boarder in Townsville whose home is Bamaga (Cape York) to assist her to obtain her P licence. Parents and Citizens Associations could be enabled (with encouragement, support and assistance) to coordinate programmes within boarding schools to increase the opportunity for such remote area students to become licensed.

Approximately 50 secondary students from Aurukun remote aboriginal community attend boarding schools away from home. Assisting those students to attain their learner driver licence and giving them mentored driver experience while at school so that they can return home with their Provisional Licence, or at least well-advanced towards obtaining it, is likely to increase the conversion rate of L to P licences.³⁵

³¹ www.lrc.justice.wa.gov.au/2publications/reports/ACL/Thematic/Prisons.pdf (viewed 18th March 2010)

³² www.aph.gov.au/Senate/Committee/indig_ctte/submissions/sub90.pdf (viewed 18th March 2010)

³³ <http://www.lrc.justice.wa.gov.au/094-FR.html> (viewed 18th March 2010)

³⁴ Thanks to Irene Marshall, Indigenous Student Support Coordinator, The Cathedral School Townsville for this information

³⁵ Pers. comm. Andrew Clarkson Dept of Communities

- Use of public service vehicles in remote communities as a resource

Most public servants in remote communities have government vehicles available for their use. They could be mandated/offered incentives to “adopt” a young driver and use the vehicle to assist them to gain the logbooked hours. No doubt such a project would have its challenging aspects however criteria could be developed to address issues that may arise. Lack of registered, insured and roadworthy vehicles in these communities is often a significant problem.

- Court-based informal initiatives for first time offenders

Employers prefer licensed staff. Those taking on apprentices can be specifically encouraged to assist and support their learner driver apprentices to gain their licences. Some drive significant distances to and from work sites in a working day. A young repeat unlicensed driving offender (who was repeatedly driving to get to work) who came before me for sentencing, was told that if he returned after an adjournment with his learner licence and logbook and a plan to get his supervised hours, he could expect that to be taken into account on sentence when determining the length of the mandatory minimum disqualification in particular. He returned with the licence (having previously failed the L test at least 3 times) and the logbook with 37 hours already logged after 8 weeks, and said his employer was supporting him. I was able to take this into account.

On a formal level, a pilot programme is currently being developed in Doomadgee (remote community via Mt Isa), by Qld Transport. The Indigenous Driver Licensing Unit (IDLU) will visit the community after the monthly circuit court visit commencing in April 2010, and administer the learner driver written test to those who wish to undertake it. Specifically, first time unlicensed drivers will have the opportunity on bail before the next court circuit visit, to gain their learner licences. Hopefully they will also be assisted to take the next step, and make a plan with a licensed driver to drive whenever the opportunity arises, to gain the hours. Regular trips by private vehicle are made between Doomadgee and north western towns. I understand that Qld Transport will rely on significant support from the Community Justice Group to coordinate and facilitate the arrangements. Those groups are already the subject of significant expectations and it remains to be seen what additional support and resources the project will require to make it a success. There is no supported driver training included. It is designed to encourage more learners to gain their learner driver licences.

I am aware of other judicial colleagues both in Queensland and other states taking this kind of therapeutic approach, whereby the court effectively becomes a catchment to divert young offenders into licensing. Formal programmes to facilitate this are not essential, however the agencies need to be present in the community to deliver the licence training and testing during the adjournment.

Measuring progress

The Queensland Government reports quarterly on Key Indicators in Queensland's Indigenous Communities using six wellbeing indicators³⁶:

- reported violence against people
- hospital admissions due to assault
- school attendance
- breaches of alcohol restrictions
- new substantiated notifications of harm
- new finalised child protection orders.

Given the new obligations for learner drivers, the already reported increase by ABS in convictions Australia-wide for driver licence offences, and the ever increasing rate of incarceration of indigenous people, an additional relevant indicator of well-being would be the conversion rate of Learner Driver Licences to Provisional licences. This would require a concerted effort to assist these drivers to attain the mandatory driving hours. Given the research relied on by all Australian governments, that increased novice driver experience contributes to a reduction in the road toll, a measurable reduction in the road toll should be a result.

The Queensland legislation has now been in operation since July 2007. I am unaware of any proposal to evaluate its impact on both the road toll and the cohort of learner drivers affected by the requirements it imposes. Given the concern of governments at the failure of initiatives to date to reduce the rate of indigenous incarceration, it may be timely to enquire as to whether this legislation, intended as a safety measure, has inadvertently made a contribution to incarceration, and indeed even to a reduction in the well-being of indigenous people.

Stephanie Tonkin
Townsville
18/3/2010

³⁶ <http://www.atsip.qld.gov.au/government/programs-initiatives/partnerships/quarterly-reports/report-jan-march-2009.asp>