

BETWEEN:

MELISSA JANE COUCHY

Applicant

and

JEANNIE ANNE DEL VECCHIO

Respondent

**Attachment 1**

**Summary of Statistics relating to the Charging, Prosecution, Conviction and  
Incarceration of Indigenous persons for Street Offences**

***Queensland***

1. It has been recognised by government agencies that statistical data specific to Indigenous persons in Queensland relating to the number and types of police charges, court outcomes and charge specific imprisonment rates is lacking.<sup>1</sup>
2. What is known is that Indigenous people are over-represented in the Queensland prison system: 1,622 per 100,000 Indigenous people aged 17 years or over were imprisoned in 2000, compared to 130 per 100,000 non-Indigenous persons.<sup>2</sup>
3. A Report on the Review of the Queensland Police Service prepared in July 1996 for the then Minister for Police and Corrective Services, Mr Russell Cooper, states at page 166: *"It is concerning that Aboriginal and Torres Strait Islander people continue to be arrested at such high rates and that a substantial proportion of arrests continue to be for relatively minor offences, often involving the use of alcohol. Public expectations, however, mean that police often have no choice but to arrest the persons. There are many reasons why Aboriginal and Torres Strait Islander people are more often arrested than non-Indigenous people. At least some of these reasons are to do with conditioned patterns of behaviour on the part of both Aboriginal and Torres Strait Islander people and police. These patterns mean that confrontation, aggression, obscene language and the like are more likely to be features of encounters between Aboriginal and Torres Strait Islander people and police. The vicious circle of behaviour and reaction confirms each group's stereotype of the other, and ultimately police are more inclined to arrest than divert."*

***National***

4. The national rate of imprisonment for Indigenous persons on 1 September 2001 was 1,765 per 100,000 adult Indigenous population. The corresponding rate for the total adult population of Australia was 145 per 100,000. This is an Indigenous prison rate of 15 times more than non-Indigenous.<sup>3</sup>
5. For both male and female Indigenous people, disorderly conduct/drinking in public was the most common reason for their most recent arrest (31% and 38% respectively).<sup>4</sup>

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<sup>1</sup> See the **Queensland Aboriginal and Torres Strait Islander Justice Agreement**, State of Queensland, July 2001 at 12.0. The Chief Magistrate and the Criminal Justice Commission have also confirmed this.

<sup>2</sup> Australian Bureau of Statistics, Prisoners in Australia, 2000 Cat 4517.0

<sup>3</sup> Australian Bureau of Statistics, Corrective Services, Australia, 20 December 2001 Cat. No. 4512.0

<sup>4</sup> Australian Bureau of Statistics, Crime and Justice, Special Article: "National Aboriginal and Torres Strait Islander Survey: law and justice issues" (Year Book Australia, 1999, Cat. No.1301.01)

6. In 1984, 14.3% of all persons imprisoned for ‘offensive behaviour’ were Indigenous.<sup>5</sup>
7. Commissioner Wootton, in the Royal Commission into Aboriginal Deaths in Custody 1991, *National Report, Overview and Recommendations* Vlm3 p21, QGPS, Canberra remarked:
- ‘It is surely time that police learnt to ignore mere abuse, let alone ‘bad language’. In this day and age many words that were once considered bad language have now become commonplace and are in general use amongst police no less than amongst other people. Maintaining the pretence that they are sensitive persons offended by such language ... does nothing for the respect of the police. It is particularly ridiculous when offence is taken at the ranting of drunks, as is so often the case. Charges about language just become part of an oppressive mechanism of control of Aborigines. Too often the attempt to arrest or charge an Aboriginal for offensive language sets in train a sequence of offences by that person and others – resisting arrest, assaulting police, hindering police and so on, none of which would have occurred if the police were not so easily ‘offended’.*”

### **Victoria**

8. In the years 1993-4 & 1996-7:<sup>6</sup>
- 8.1. Indigenous people were 12 times more likely to be jailed than non-Indigenous people;
- 8.2. 36.1% of arrests of Indigenous juveniles were for street offences, compared with 15.4% of non-Indigenous juvenile arrests;
- 8.3. 46% of young Indigenous offenders were arrested and 12% cautioned in comparison to non-Indigenous youths, 26% were arrested, 32% cautioned.

### **Western Australia**

9. During 1989, some 20% of Aboriginal women sentenced to jail were imprisoned for offences related to public order including drunkenness, disorderly conduct and other good order offences. Less than 3.5% of non-Aboriginal women were in prison for similar offences.<sup>7</sup>
10. In 2000 it was found:<sup>8</sup>
- 10.1. Indigenous people were 9.7 times more likely to be arrested by police than non-Indigenous people;
- 10.2. Considerably fewer Indigenous were summonsed than non-Indigenous people (14.4% compared with 30.4% for juveniles; and 9.0% compared with 25.5% in the case of adults);
- 10.3. 44% of good order offences (including vagrancy, public drunkenness, not involving property, drugs or offences against the person) involved Indigenous people;
- 10.4. 43.28% of prison receivals for good order offences were Indigenous people,
- 10.5. At census taken 31 December 2000, 41.7% of males imprisoned for good order offences were Indigenous, 52.27% of females imprisoned for good order offences were Indigenous;
- 10.6. Indigenous people comprised 41.3% of all receivals into lock-ups, 31.7% of distinct persons received<sup>9</sup> and 51% of detainees at census on 30 June 2000;

<sup>5</sup> “The Recognition of Aboriginal Customary Laws Summary Report” Australian Law Reform Commission, May 1986, paras 394-6, referring to statistics from the 1984 National Prison Census, Australian Institute of Criminology, Canberra.

<sup>6</sup> “Indigenous people and criminal justice in Victoria”, Monash University, Centre for Australian Indigenous Studies, 2001, referring to Victorian Police Statistics.

<sup>7</sup> Cunneen, C. (1993) ‘Judicial Racism’ in McKillop, S. (ed) *Aboriginal Justice Issues*, Australian Institute of Criminology, Conference Proceedings No 21, Canberra, ISBN 0 642 19621 4 pp117-134 referring to O’Dea 1991, vol 1, p. 163, Table 4.9 “Major Offence of Each Sentenced Prisoner Received in Western Australia Year Ending 30 June 1989”

<sup>8</sup> University of WA Crime Research Centre, “Crime and Justice Statistics for Western Australia: 2000”, Statistical Report (2000): 1 January 2000 – 31 December 2000, November 2001

- 10.7. Indigenous people comprised 85.8% of all ‘drunken detainee’ receivals, 75.9% of distinct persons received as ‘drunken detainees’ and 87.5% of ‘drunken detainees’ at census on 30 June 2000; and
- 10.8. Indigenes comprised the highest majority of those detained for good order offences (excluding drunken detainees) compared to any other offence (49.8%).

### ***New South Wales***

11. In the period April 1994 to December 1995, it was found:<sup>10</sup>
- 11.1. In areas with a high proportion of Indigenous residents, Indigenous people accounted for 77 % of alleged offenders for offensive language, and 70% of alleged offenders for offensive behaviour, whilst making up 28% of the population;
- 11.2. In areas with a low proportion of Indigenous residents, Indigenous people accounted for 13% of alleged offenders for offensive language and 9% of alleged offenders for offensive behaviour while making up just 1% of the population;
- 11.3. There was some evidence of courts being less likely to dismiss similar charges brought against Aboriginal people than non-Aboriginal people: in areas with a low Indigenous population 22% of offensive behaviour and 16% of offensive language appearances were dismissed, in areas with a high proportion of Indigenous population only 13% and 12% were dismissed respectively.
12. In 1995, the Aboriginal Justice Advisory Committee *Report 1993-95* recommended that:<sup>11</sup>
- 12.1. *“Pursuant to Recommendations 86 and 87 of the Royal Commission into Aboriginal Deaths in Custody, Section 4 of the Summary Offences Act 1988 (NSW), which creates the offence of the offensive language and offensive behaviour in public, be repealed.”*
- 12.2. Recommendation 86 states that:
- 12.2.1. *“The use of Offensive Language in circumstances of interventions initiated by police should not normally be occasion for arrest or charge;”* and
- 12.2.2. *“Police Services should examine and monitor the use of offensive language charges”*

### ***South Australia***

13. Between January and 30 June 1983, 34% of all prisoners convicted of drunkenness, minor street offences and offences against public order were Indigenous people.<sup>12</sup>
14. In 1997, Indigenous young people who were apprehended by police were substantially more likely than their non-Indigenous counterparts to be brought into the system by way of an arrest, rather than a report (47.1% of Indigenous apprehensions were arrest-based, compared with 27.3% of non-Indigenous apprehensions).<sup>13</sup>

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<sup>9</sup> Distinct persons count for each specific person, only one offence.

<sup>10</sup> NSW Bureau of Crime and Statistics, using Local Court data compiled by them and population data from the Australian Bureau of Statistics from the period April 1994 to December 1995.

<sup>11</sup> NSW Attorney General’s Department, Sydney, 1995.

<sup>12</sup> “The Recognition of Aboriginal Customary Laws Summary Report” Australian Law Reform Commission, May 1986, referring to statistics from the 1984 National Prison Census, Australian Institute of Criminology, Canberra.

<sup>13</sup> Aboriginal People and the Criminal Justice System: Report 2 – Comparison of Aboriginal and Non-Aboriginal contact with the South Australia juvenile justice system 1997, Doherty, J & South Australian Aboriginal Justice Advocacy Committee, April 1999.