Recommendations

Overview

1. That having regard to the great input which has been made to the work of the Commission, not only by governments and departments of government but also by Aboriginal communities, organisations and individuals, on the one hand, and non-Aboriginal organisations and individuals, on the other, it is highly desirable that the attitude of governments to the recommendations and the implementation of those adopted be carried out in a public way as part of the process of education and reconciliation of the whole society. To this end the Commission recommends:

a. That the Commonwealth Government and State and Territory Governments, in consultation with ATSIC, agree upon a process which ensures that the adoption or otherwise of recommendations and the implementation of the adopted recommendations will be reported upon on a regular basis with respect to progress on a Commonwealth, State and Territory basis;

b. That such reports should be made not less than annually and that, subject to the agreement of its Commissioners so to do, ATSIC be given special responsibility and funding to enable it to monitor the progress of the implementation of the adopted recommendations and to report thereon to the Aboriginal and Torres Strait Islander community;

c. That governments consult with appropriate Aboriginal organisations in the consideration and implementation of the various recommendations in this report;

d. That, wherever appropriate, governments make use of the services of Aboriginal organisations in implementing such recommendations; and

e. Ensure that local Aboriginal organisations are consulted about the local implementation of recommendations, and their services be used wherever feasible. (1:29)

2. That subject to the adoption by governments of this recommendation and the concurrence of Aboriginal communities and appropriate organisations, there be established in each State and Territory an independent Aboriginal Justice Advisory Committee to provide each Government with advice on Aboriginal perceptions of criminal justice matters, and on the implementation of the recommendations of this report.

The Aboriginal Justice Advisory Committee in each State should be drawn from, and represent, a network of similar local or regionally based committees which can provide the State Advisory Committee with information of the views of Aboriginal people. It is most important that the views of people living outside the urban centres be incorporated.

The terms of reference of each State, local or regional Advisory Committee is a matter to be negotiated between governments and Aboriginal people. The Commission suggests however that matters which might appropriately be considered include, *inter alia:*

a. The implementation of the recommendations of this report, or such of them as receive the endorsement of the

Government;

b. Proposals for changes to policies which affect the operation of the criminal justice system;

e. Programs for crime prevention and social control which enhance Aboriginal self-management and autonomy;

d. Programs which increase the recruitment of Aboriginal people to the staff of criminal justice agencies; and

e. The dissemination of information on policies and programs between different agencies, and between parallel bodies in different States. (1:30)

3. The Commission notes that some of the recommendations of this report, particularly those relating to the custodial environment, are particularly detailed. The monitoring of the implementation of recommendations could only be carried out in close liaison with the authorities responsible for implementing them. In order to ensure that the State Aboriginal Justice Advisory Committee is able to give informed advice to the Attorney-General or Minister for Justice, it should be assisted by a small Secretariat, staffed by people with knowledge of Aboriginal interactions with the criminal justice system. The role of the Secretariat should be to provide information to the Advisory Committee, assist it in the development of policy proposals, and liaise on behalf (and at the direction of) the Committee with other agencies. The Secretariat should be located within the Department of Attorney-General or Minister for Justice but be accountable to the Advisory Committee on terms to be negotiated between government and Aboriginal people but with the maximum degree of autonomy from government as may be consistent with it fulfilling its function to assist the Advisory Committee to give informed, independent advice to government. (1:31)

The Findings of the Commissioners as to the Deaths

4. That if and where claims are made in respect of the deaths based on the findings of Commissioners:

a. Governments should not, in all the circumstances, take the point that a claim is out of time as prescribed by the relevant Statute of Limitations; and

b. Governments should, whenever appropriate, make the effort to settle claims by negotiation so as to avoid further distress to families by litigation. (1:100)

5. That governments, recognising the trauma and pain suffered by relatives, kin and friends of those who died in custody, give sympathetic support to requests to provide funds or services to enable counselling to be offered to these people. (1:100)

Post-Death Investigations

6. That for the purpose of all recommendations relating to post-death investigations the definition of deaths should include at least the following categories:

a. The death wherever occurring of a person who is in prison custody or police custody or detention as a juvenile;

b. The death wherever occurring of a person whose death is caused or contributed to by traumatic injuries sustained or by lack of proper care whilst in such custody or detention;

c. The death wherever occurring of a person who dies or is fatally injured in the process of police or prison officers attempting to detain that person; and

d. The death wherever occurring of a person who dies or is fatally injured in the process of that person escaping or attempting to escape from prison custody or police custody or juvenile detention. (1: 170)

7. That the State Coroner or, in any State or Territory where a similar office does not exist, a Coroner specially

designated for the purpose, be generally responsible for inquiry into all deaths in custody. (In all recommendations in this report the words 'State Coroner' should be taken to mean and include the Coroner so specially designated.) (1:171)

8. That the State Coroner be responsible for the development of a protocol for the conduct of coronial inquiries into deaths in custody and provide such guidance as is appropriate to Coroners appointed to conduct inquiries and inquests. (1:171)

9. That a Coroner inquiring into a death in custody be a Stipendiary Magistrate or a more senior judicial officer. (1:171)

10. That custodial authorities be required by law to immediately notify the Coroners Office of all deaths in custody, in addition to any other appropriate notification. (1:171)

11. That all deaths in custody be required by law to be the subject of a coronial inquiry which culminates in a formal inquest conducted by a Coroner into the circumstances of the death. Unless there are compelling reasons to justify a different approach the inquest should be conducted in public hearings. A full record of the evidence should be taken at the inquest and retained. (1:172)

12. That a Coroner inquiring into a death in custody be required by law to investigate not only the cause and circumstances of the death but also the quality of the care, treatment and supervision of the deceased prior to death. (1:172)

13. That a Coroner inquiring into a death in custody be required to make findings as to the matters which the Coroner is required to investigate and to make such recommendations as are deemed appropriate with a view to preventing further custodial deaths. The Coroner should be empowered, further, to make such recommendations on other matters as he or she deems appropriate. (1:172)

14. That copies of the findings and recommendations of the Coroner be provided by the Coroners Office to all parties who appeared at the inquest, to the Attorney-General or Minister for Justice of the State or Territory in which the inquest was conducted, to the Minister of the Crown with responsibility for the relevant custodial agency or department and to such other persons as the Coroner deems appropriate. (1:172)

15. That within three calendar months of publication of the findings and recommendations of the Coroner as to any death in custody, any agency or department to which a copy of the findings and recommendations has been delivered by the Coroner shall provide, in writing, to the Minister of the Crown with responsibility for that agency or department, its response to the findings and recommendations, which should include a report as to whether any action has been taken or is proposed to be taken with respect to any person. (1:172)

16. That the relevant Ministers of the Crown to whom responses are delivered by agencies or departments, as provided for in Recommendation 15, provide copies of each such response to all parties who appeared before the Coroner at the inquest, to the Coroner who conducted the inquest and to the State Coroner. That the State Coroner be empowered to call for such further explanations or information as he or she considers necessary, including reports as to further action taken in relation to the recommendation s. (1:173)

17. That the State Coroner be required to report annually in writing to the Attorney-General or Minister for Justice, (such report to be tabled in Parliament), as to deaths in custody generally within the jurisdiction and, in particular, as to findings and recommendations made by Coroners pursuant to the terms of Recommendation 13 above and as to the responses to such findings and recommendations provided pursuant to the terms of Recommendation 16 above. (1:173)

18. That the State Coroner, in reporting to the Attorney-General or Minister for Justice, be empowered to make such recommendations as the State Coroner deems fit with respect to the prevention of deaths in custody. (1:173)

19. That immediate notification of death of an Aboriginal person be given to the family of the deceased and, if others were nominated by the deceased as persons to be contacted in the event of emergency, to such persons so nominated. Notification should be the responsibility of the custodial institution in which the death occurred; notification, wherever

possible, should be made in person, preferably by an Aboriginal person known to those being so notified. At all times notification should be given in a sensitive manner respecting the culture and interests of the persons being notified and the entitlement of such persons to full and frank reporting of such circumstances of the death as are known. (1:174)

20. That the appropriate Aboriginal Legal Service be notified immediately of any Aboriginal death in custody. (1:174)

21. That the deceased's family or other nominated person and the Aboriginal Legal Service be advised as soon as possible and, in any event, in adequate time, as to the date and time of the coronial inquest. (1:174)

22. That no inquest should proceed in the absence of appearance for or on behalf of the family of the deceased unless the Coroner is satisfied that the family has been notified of the hearing in good time and that the family does not wish to appear in person or by a representative. In the event that no clear advice is available to the Coroner as to the family's intention to be appear or be represented no inquest should proceed unless the Coroner is satisfied that all reasonable efforts have been made to obtain such advice from the family, the Aboriginal Legal Service and/or from lawyers representing the family. (1: 174)

23. That the family of the deceased be entitled to legal representation at the inquest and that government pay the reasonable costs of such representation through legal aid schemes or otherwise. (1:175)

24. That unless the State Coroner or the Coroner appointed to conduct the inquiry otherwise directs, investigators conducting inquiries on behalf of the Coroner and the staff of the Coroners Office should at all times endeavour to provide such information as is sought by the family of the deceased, the Aboriginal Legal Service and/or lawyers representing the family as to the progress of their investigation and the preparation of the brief for the inquest. All efforts should be made to provide frank and helpful advice and to do so in a polite and considerate manner. If requested, all efforts should be made to allow family members or their representatives the opportunity to inspect the scene of death. (1: 175)

25. That unless the State Coroner, or the Coroner appointed to conduct the inquiry, directs otherwise, and in writing, the family of the deceased or their representative should have a right to view the body, to view the scene of death, to have an independent observer at any post-mortem that is authorised to be conducted by the Coroner, to engage an independent medical practitioner to be present at the post-mortem or to conduct a further post-mortem, and to receive a copy of the post-mortem report. If the Coroner directs otherwise, a copy of the direction should be sent to the family and to the Aboriginal Legal Service. (1:175)

26. That as soon as practicable, and not later than forty-eight hours after receiving advice of a death in custody the State Coroner should appoint a solicitor or barrister to assist the Coroner who will conduct the inquiry into the death. (1:176)

27. That the person appointed to assist the Coroner in the conduct of the inquiry may be a salaried officer of the Crown Law Office or the equivalent office in each State and Territory, provided that the officer so appointed is independent of relevant custodial authorities and officers. Where, in the opinion of the State Coroner, the complexity of the inquiry or other factors, necessitates the engaging of counsel then the responsible government office should ensure that counsel is so engaged. (1:176)

28. That the duties of the lawyer assisting the Coroner be, subject to direction of the Coroner, to take responsibility, in the first instance, for ensuring that full and adequate inquiry is conducted into the cause and circumstances of the death and into such other matters as the Coroner is bound to investigate. Upon the heating of the inquest the duties of the lawyer assisting at the inquest, whether solicitor or barrister, should be to ensure that all relevant evidence is brought to the attention of the Coroner and appropriately tested, so as to enable the Coroner to make such findings and recommendations as are appropriate to be made. (1:176)

29. That the Coroner in charge of a coronial inquiry into a death in custody have legal power to require the officer in charge of the police investigation to report to the Coroner. The Coroner should have power to give directions as to any additional steps he or she desires to be taken in the investigation. (1:176)

30. That subject to direction, generally or specifically given, by the Coroner, the lawyer assisting the Coroner should have responsibility for reviewing the conduct of the investigation and advising the Coroner as to the progress of the investigation. (1:177)

31. That in performing the duties as lawyer assisting the Coroner in the inquiry into a death the lawyer assisting the Coroner be kept informed at all times by the officer in charge of the police investigation into the death as to the conduct of the investigation and the lawyer assisting the Coroner should be entitled to require the officer in charge of the police investigation to conduct such further investigation as may be deemed appropriate. Where dispute arises between the officer in charge of the police investigation and the lawyer assisting the Coroner as to the appropriateness of such further investigation the matter should be resolved by the Coroner. (1:177)

32. That the selection of the officer in charge of the police investigation into a death in custody be made by an officer of Chief Commissioner, Deputy Commissioner or Assistant Commissioner rank. (1:177)

33. That all officers involved in the investigation of a death in police custody be selected from an Internal Affairs Unit or from a police command area other than that in which the death occurred and in every respect should be as independent as possible from police officers concerned with matters under investigation. Police officers who were on duty during the time of last detention of a person who died in custody should take no part in the investigation into that death save as witnesses or, where necessary, for the purpose of preserving the scene of death. (1: 177)

34. That police investigations be conducted by officers who are highly qualified as investigators, for instance, by experience in the Criminal Investigation Branch. Such officers should be responsible to one, identified, senior officer. (1:178)

35. That police standing orders or instructions provide specific directions as to the conduct of investigations into the circumstances of a death in custody. As a matter of guidance and without limiting the scope of such directions as may be determined, it is the view of the Commission that such directions should require, *inter alia*, that:

a. Investigations should be approached on the basis that the death may be a homicide. Suicide should never be presumed;

b. All investigations should extend beyond an inquiry into whether death occurred as a result of criminal behaviour and should include inquiry into the lawfulness of the custody and the general care, treatment and supervision of the deceased prior to death;

c. The investigations into deaths in police watch-houses should include full inquiry into the circumstances leading to incarceration, including the circumstances of arrest or apprehension and the deceased's activities beforehand;

d. In the course of inquiry into the general care, treatment or supervision of the deceased prior to death particular attention should be given to whether custodial officers observed all relevant policies and instructions relating to the care, treatment and supervision of the deceased; and

e. The scene of death should be subject to a thorough examination including the seizure of exhibits for forensic science examination and the recording of the scene of death by means of high quality colour photography. (1:178)

36. Investigations into deaths in custody should be structured to provide a thorough evidentiary base for consideration by the Coroner on inquest into the cause and circumstances of the death and the quality of the care, treatment and supervision of the deceased prior to death. (1: 179)

37. That all post-mortem examinations of the deceased be conducted by a specialist forensic pathologist wherever possible or, if a specialist forensic pathologist is not available, by a specialist pathologist qualified by experience or training to conduct such post-mortems. (1:179)

38. The Commission notes that whilst the conduct of a thorough autopsy is generally a prerequisite for an adequate coronial inquiry some Aboriginal people object, on cultural grounds, to the conduct of an autopsy. The Commission

recognises that there are occasions where as a matter of urgency and in the public interest the Coroner may feel obligated to order that an autopsy be conducted notwithstanding the fact that there may be objections to that course from members of the family or community of the deceased. The Commission recommends that in order to minimise and to resolve difficulties in this area the State Coroner or the representative of the State Coroner should consult generally with Aboriginal Legal Services and Aboriginal Health Services to develop a protocol for the resolution of questions involving the conduct of inquiries and autopsies, the removal and burial of organs and the removal and return of the body of the deceased. It is highly desirable that as far as possible no obstacle be placed in the way of carrying out of traditional rites and that relatives of a deceased Aboriginal person be spared further grief. The Commission further recommends that the Coroner conducting an inquiry into a death in custody should be guided by such protocol and should make all reasonable efforts to obtain advice from the family and community of the deceased in consultation with relevant Aboriginal organisations. (1:179)

39. That in developing a protocol with Aboriginal Legal Services and Aboriginal Health Services as proposed in Recommendation 38, the State Coroner might consider whether it is appropriate to extend the terms of the protocol to deal with any and all cases of Aboriginal deaths notified to the Coroner and not just to those deaths which occur in custody. (1:180)

40. That Coroners Offices in all States and Territories establish and maintain a uniform data base to record details of Aboriginal and non-Aboriginal deaths in custody and liaise with the Australian Institute of Criminology and such other bodies as may be authorised to compile and maintain records of Aboriginal deaths in custody in Australia. (1:180)

Adequacy of Information

41. That statistics and other information on Aboriginal and non- Aboriginal deaths in prison, police custody and juvenile detention centres, and related matters, be monitored nationally on an ongoing basis. I suggest that responsibility for this be established within the Australian Institute of Criminology and that all custodial agencies co-operate with the Institute to enable it to carry out the responsibility. The responsibility should include at least the following functions:

a. Maintain a statistical data base relating to deaths in custody of Aboriginal and non-Aboriginal persons (distinguishing Aboriginal people from Torres Strait Islanders);

b. Report annually to the Commonwealth Parliament; and

c. Negotiate with all custodial agencies with a view to formulating a nationally agreed standard form of statistical input and a standard definition of deaths in custody. Such definition should include at least the following categories:

i. the death wherever occurring of a person who is in prison custody or police custody or detention as a juvenile;

ii. the death wherever occurring of a person whose death is caused or contributed to by traumatic injuries sustained or by lack of proper care whilst in such custody or detention;

iii. the death wherever occurring of a person who dies or is fatally injured in the process of police or prison officers attempting to detain that person; and

iv. the death wherever occurring of a person who dies or is fatally injured in the process of that person escaping or attempting to escape from prison custody or police custody or juvenile detention. (1: 189)

42. That governments require the provision of and publish, on a regular and frequent basis, detailed information on the numbers and details of the people passing through their police cells. (1:195)

43. That a survey such as the 1988 National Police Custody Survey be conducted at regular intervals of, say, two to five years, with the aim of systematically monitoring and evaluating the degree to which needed improvements in legislation, attitudes, policies and procedures that affect police custody are implemented. (1:195)

44. That the Australian Institute of Criminology co-ordinate and implement the recommended series of national surveys. The experience of the first national survey points to the fact that careful planning with all the relevant authorities will be needed to ensure that the maximum amount of useful information is derived from the surveys. (1:195)

45. That the appropriate Ministerial Councils strive to achieve a commonality of approach in data collections concerning both police and prison custody. (1:196)

46. That the national deaths in custody surveys which I have recommended be undertaken by the Australian Institute of Criminology include the establishment of uniform procedures and methodologies which would not only enhance the state of knowledge in this area but also facilitate the making of comparisons between Australian and other jurisdictions, and facilitate communication of research findings. (1: 196)

47. That relevant Ministers report annually to their State and Territory Parliaments as to the numbers of persons held in police, prison and juvenile centre custody with statistical details as to the legal status of the persons so held (for example, on arrest; on remand for trial; on remand for sentence; sentenced; for fine default or on other warrant; for breach of non-custodial court orders; protective custody or as the case may be), including whether the persons detained were or were not Aboriginal or Torres Strait Islander people. (1:197)

Aboriginal Society Today

48. That when social indicators are to be used to monitor and/or evaluate policies and programs concerning Aboriginal people, the informed views of Aboriginal people should be incorporated into the development, interpretation and use of the indicators, to ensure that they adequately reflect Aboriginal perceptions and aspirations. In particular, it is recommended that authorities considering information gathering activities concerning Aboriginal people should consult with ATSIC and other Aboriginal organisations, such as NAIHO or NAILSS, as to the project. (2:53)

49. That proposals for a special national survey covering a range of social, demographic, health and economic characteristics of the Aboriginal population with full Aboriginal participation at all levels be supported. The proposed census should take as its boundaries the ATSIC boundaries. The Aboriginal respondents to the census should be encouraged to nominate their traditional/contemporary language affiliation. I further recommend that the ATSIC Regional Councils be encouraged to use the special census to obtain an inventory of community infrastructure, assets and outstanding needs which can be used as data for the development of their regional plans. (2:62)

50. That in the development of future national censuses and other data collection activity covering Aboriginal people, the Australian Bureau of Statistics and other agencies consult, at an early stage, with ATSIC- to ensure that full account is taken of the Aboriginal perspective. (2:63)

51. That research funding bodies reviewing proposals for further research on programs and policies affecting Aboriginal people adopt as principal criteria for the funding of those programs:

a. The extent to which the problem or process being investigated has been defined by Aboriginal people of the relevant community or group;

b. The extent to which Aboriginal people from the relevant community or group have substantial control over the conduct of the research;

c. The requirement that Aboriginal people from the relevant community or group receive the results of the research delivered in a form which can be understood by them; and

d. The requirement that the research include the formulation of proposals for further action by the Aboriginal community and local Aboriginal organisations. (2:63)

52. That funding should be made available to organisations such as Link-Up which have the support of Aboriginal

people for the purpose of re-establishing links to family and community which had been severed or attenuated by past government policies. Where this service is being provided to Aboriginal people by organisations or bodies which, not being primarily established to pursue this purpose, provide the service in conjunction with other functions which they perform, the role of such organisations in assisting Aboriginal people to re-establish their links to family and community should be recognised and funded, where appropriate. (2:79)

53. That Commonwealth, State and Territory Governments provide access to all government archival records pertaining to the family and community histories of Aboriginal people so as to assist the process of enabling Aboriginal people to re-establish community and family links with those people from whom they were separated as a result of past policies of government. The Commission recognises that questions of the rights to privacy and questions of confidentiality may arise and recommends that the principles and processes for access to such records should be negotiated between government and appropriate Aboriginal organisations, but such negotiations should proceed on the basis that as a general principle access to such documents should be permitted. (2:79)

54. That in States or Territories which have not already so provided there should be legislative recognition of:

a. The Aboriginal Child Placement Principle; and

b. The essential role of Aboriginal Child Care Agencies. (2:83)

55. That government and funding bodies reflect the importance of the National Aboriginal Language Policy in the provision of funds to Aboriginal communities and organisations. (2: 141)

56. The Commission notes that many Aboriginal people have expressed the wish to record and make known to both Aboriginal and non-Aboriginal people aspects of the history, traditions and contemporary culture of Aboriginal society. This wish has been reflected in the establishment of many small local community museums and culture centres. The Commission notes that many opportunities exist for projects which introduce non-Aboriginal people to Aboriginal history and culture. One illustration is the work done by the Kaurna people in South Australia to restore the Tjilbruke track; another is the Brewarrina Museum. The Commission recommends that government and appropriate heritage authorities negotiate with Aboriginal communities and organisations in order to support such Aboriginal initiatives. (2: 142)

57. That Governments agree that:

a. The records of the Commission be held in archives in the capital city of the state in which the inquiry, which gathered those records, occurred; and

b. A relevant Aboriginal body, for example the Aboriginal Affairs Planning Authority in the case of Western Australia, be given responsibility for determining access the material jointly with the normal authority for determining such matters. (2: 142)

Relations with the Non-Aboriginal Community

58. That Governments give consideration to amending the liquor laws to provide a right of appeal to persons excluded from a hotel where that exclusion or its continuation is harsh or unreasonable. (2:179)

59. That Police Services use every endeavour to police the provisions of Licensing Acts which make it an offence to serve intoxicated persons. (2:180)

The Criminal Justice System: Relations with Police

60. That Police Services take all possible steps to eliminate:

a. Violent or rough treatment or verbal abuse of Aboriginal persons including women and young people, by police

officers; and

b. The use of racist or offensive language, or the use of racist or derogatory comments in log books and other documents, by police officers. When such conduct is found to have occurred, it should be treated as a serious breach of discipline. (2:223)

61. That all Police Services review their use of para-military forces such as the New South Wales SWOS and TRG units to ensure that there is no avoidable use of such units in circumstances affecting Aboriginal communities. (2:223)

Young Aboriginal People and the Juvenile Justice System

62. That governments and Aboriginal organisations recognise that the problems affecting Aboriginal juveniles are so widespread and have such potentially disastrous repercussions for the future that there is an urgent need for governments and Aboriginal organisations to negotiate together to devise strategies designed to reduce the rate at which Aboriginal juveniles are involved in the welfare and criminal justice systems and, in particular, to reduce the rate at which Aboriginal juveniles are separated from their families and communities, whether by being declared to be in need of care, detained, imprisoned or otherwise. (2:252)

The Harmful use of Alcohol and other Drugs

63. That having regard to the desirability of Aboriginal people deciding for themselves what courses of action should be pursued to advance their well-being, ATSIC consider, in the light of the implementation of the National Aboriginal Health Strategy, the establishment of a National Task Force to focus on:

a. The examination of the social and health problems which Aboriginal people experience as a consequence of alcohol use;

b. The assessment of the needs in this area and the means to fulfil these needs; and

c. The representation of Aboriginal Health Services and other medical resources in such a project. (2:330)

64. That Aboriginal people be involved at every level in the development, implementation and interpretation of research into the patterns, causes and consequences of Aboriginal alcohol use and in the application of the results of that research. (2:330)

65. That if Aboriginal people identify it as a priority (and ATSIC is well placed to make such a judgement) the Ministerial Council on Drug Strategy, as the body which manages the NCADA, act to develop and implement, in conjunction with Aboriginal people and organisations, an ongoing program of data collection and research to fill the many gaps which exist in knowledge about Aboriginal alcohol and other drug use and the consequences of such use. Particular areas of need are:

a. Information about alcohol consumption among urban Aboriginal groups;

b. Information about alcohol consumption among Aboriginal youth;

c. Longitudinal data in all areas;

d. An emphasis on good quality data utilising standard methodology and definitions; and

e. Evaluation research which assists in developing improved Aboriginal prevention, intervention and treatment initiatives in the alcohol and other drugs field. (2:330)

66. That if Aboriginal people identify it as a priority, organisations which support research into Aboriginal issues, including the NCADA and the Australian Institute of Aboriginal and Torres Strait Islander Studies, encourage more

comprehensive and diverse research into the extent, causes and consequences of alcohol use among Aboriginal people. In particular, that appropriate steps be taken to ensure that the NCADA national research and training centres at the University of New South Wales, Curtin University and the Flinders University of South Australia establish mechanisms to encourage new graduates, researchers from other fields and Aboriginal people to conduct research in this area and identify research priorities and methods to implement them. (2:331)

67. That the National Drug Abuse Data System of the NCADA institute a regular research program to establish baseline data and monitor changes over time in relation to the health, social and economic consequences of alcohol use among Aboriginal people. (2:331)

68. That responsible authorities accurately identify Aboriginal people in administrative data sets such as those covering mortality, morbidity and other social indicators, where such action will provide basic information which will assist Aboriginal organisations to achieve their research and service development goals. While it is acknowledged that primary responsibility for the management of such data sets lies with the States and Territories, Commonwealth agencies such as ATSIC, the AIH and the AIC should be involved in this exercise in a co-ordinating role. (2:331)

69. That with the aim of assisting Aboriginal organisations to develop effective programs aimed at minimising the harm arising from alcohol and other drug use, priority be given by research funding bodies to research investigating the causal relationships between alcohol and other drugs, including their availability, and consequences on community well-being and criminal activity. (2:332)

70. That organisations developing policies and programs addressing Aboriginal alcohol issues:

a. Recognise the inadequacy of single factor explanations (such as the disease model of problematic alcohol use) of the causes of alcohol dependence and misuse among individuals; and

b. Take into account the fact that multiple explanations are necessary to explain the causes of alcohol misuse and related problems at the community level. It is therefore inappropriate to focus too strongly on any one explanation to the exclusion of others. (2:332)

71. That research funding bodies consider commissioning or otherwise sponsoring research investigating Aboriginal conceptualisation's of the nature and causes of alcohol dependence and misuse and the prevention, intervention and treatment approaches which stem from these. (2:332)

Schooling

72. That in responding to truancy the primary principle to be followed by government agencies be to provide support, in collaboration with appropriate Aboriginal individuals and organisations, to the juvenile and to those responsible for the care of the juvenile; such support to include addressing the cultural and social factors identified by the juvenile and by those responsible for the care of the juvenile as being relevant to the truancy. (2:368)

Housing and Infrastructure

73. That the provision of housing and infrastructure to Aboriginal people in remote and discrete communities, including the design and location of houses, take account of their cultural perceptions of the use of living space, and that budgetary allocations include provision for appropriate architectural and town planning advice to, and consultation with, the serviced community. (2:343)

74. That the work of the Centre for Appropriate Technology in Alice Springs in the design of items specifically for infrastructural and technological innovations appropriate to remote communities, and that of similar research units, be appropriately encouraged and supported. (2:449)

75. That Aboriginal communities be given equitable access to ongoing expenditure by the Commonwealth, State and

Territory, and local authorities on roads. In addition, where new roads or changes to existing roads are proposed, it is recommended that no development should take place until the impact on Aboriginal land and the possible impact on Aboriginal communities that public access may have are established in consultation with those communities likely to be affected by the development proposal. (2:451)

76. That the integrated analysis of infrastructure, housing, essential services and health as illustrated by the Nganampa Health Council's UPK Report be considered as a model worthy of study and adaption for the development of community planning processes in other States and areas. (2:462)

Self-Determination and Local Government

77. That the distinction between communities with or without formal local government authority status should be abolished for purposes of access to Commonwealth roads funding. The Minister for Aboriginal Affairs and the Federal Minister for Local Government should establish a review of Commonwealth Local Road Funds and specific purpose funding with, amongst others, one specific term of reference being to find feasible solutions to the problem of inequity for Aboriginal people in the provision and maintenance area of roads. (2:551)

78. That with respect to the provision of grants the Queensland State Government should ensure that Aboriginal and Islander Community Councils are considered against the average standards used for mainstream local government councils. Aboriginal Community Councils should have access to the Capital Works Subsidy Scheme available to mainstream local Government Authorities. The operation of the Aerodrome Local Ownership Scheme should be extended to Aboriginal Community Councils. (2:556)

Diversion from Police Custody

79. That, in jurisdictions where drunkenness has not been decriminalised, governments should legislate to abolish the offence of public drunkenness. (3:28)

80. That the abolition of the offence of drunkenness should be accompanied by adequately funded programs to establish and maintain non-custodial facilities for the care and treatment of intoxicated persons. (3:28)

81. That legislation decriminalising drunkenness should place a statutory duty upon police to consider and utilise alternatives to the detention of intoxicated persons in police cells. Alternatives should include the options of taking the intoxicated person home or to a facility established for the care of intoxicated persons. (3:28)

82. That governments should closely monitor the effects of dry area declarations and other regulations or laws restricting the consumption of alcohol so as to determine their effect on the rates of custody in particular areas and other consequences. (3:28)

83. That:

a. The Northern Territory Government consider giving a public indication that it will review the two kilometre law at the end of a period of one year in the expectation that all relevant organisations, both Aboriginal and non- Aboriginal, will negotiate as to appropriate local agreements relating to the consumption of alcohol in public that will meet the reasonable expectations of both Aboriginal and non-Aboriginal people associated with particular localities; and

b. Other Governments give consideration to taking similar action in respect of laws operating within their jurisdictions designed to deal with the public consumption of alcohol. (3:28)

84. That issues related to public drinking should be the subject of negotiation between police, local government bodies and representative Aboriginal organisations, including Aboriginal Legal Services, with a view to producing a generally acceptable plan. (3:29)

85. That:

a. Police Services should monitor the effect of legislation which decriminalises drunkenness with a view to ensuring that people detained by police officers are not being detained in police cells when they should more appropriately have been taken to alternative places of care;

b. The effect of such legislation should be monitored to ensure that persons who would otherwise have been apprehended for drunkenness are not, instead, being arrested and charged with other minor offences. Such monitoring should also assess differences in police practices between urban and rural areas; and

c. The results of such monitoring of the implementation of the decriminalisation of drunkenness should be made public. (3:29)

86. That:

a. The use of offensive language in circumstances of interventions initiated by police should not normally be occasion for arrest or charge; and

b. Police Services should examine and monitor the use of offensive language charges. (3:29)

87. That:

a. All Police Services should adopt and apply the principle of arrest being the sanction of last resort in dealing with offenders;

b. Police administrators should train and instruct police officers accordingly and should closely check that this principle is carried out in practice;

c. Administrators of Police Services should take a more active role in ensuring police compliance with directives, guidelines and rules aimed at reducing unnecessary custodies and should review practices and procedures relevant to the use of arrest or process by summons and in particular should take account of the following matters:

i. all possible steps should be taken to ensure that allowances paid to police officers do not operate as an incentive to increase the number of arrests;

ii. a statistical data base should be established for monitoring the use of summons and arrest procedures on a Statewide basis noting the utilisation of such procedures, in particular divisions and stations;

iii. the role of supervisors should be examined and, where necessary, strengthened to provide for the overseeing of the appropriateness of arrest practices by police officers;

iv. efficiency and promotion criteria should be reviewed to ensure that advantage does not accrue to individuals or to police stations as a result of the frequency of making charges or arrests; and

v. procedures should be reviewed to ensure that work processes (particularly relating to paper work) are not encouraging arrest rather than the adoption of other options such as proceeding by summons or caution; and

d. Governments, in conjunction with Police Services, should consider the question of whether procedures for formal caution should be established in respect of certain types of offences rather than proceeding by way of prosecution. (3:42)

88. That Police Services in their ongoing review of the allocation of resources should closely examine, in collaboration with Aboriginal organisations, whether there is a sufficient emphasis on community policing. In the course of that process of review, they should, in negotiation with appropriate Aboriginal organisations and people, consider whether:

a. There is over-policing or inappropriate policing of Aboriginal people in any city or regional centre or country town;

b. The policing provided to more remote communities is adequate and appropriate to meet the needs of those communities and, in particular, to meet the needs of women in those communities; and

c. There is sufficient emphasis on crime prevention and liaison work and training directed to such work. (3:43)

89. That, the operation of bail legislation should be closely monitored by each government to ensure that the entitlement to bail, as set out in the legislation, is being recognised in practice. Furthermore the Commission recommends that the factors highlighted in this report as relevant to the granting of bail be closely considered by police administrators. (3:54)

90. That in jurisdictions where this is not already the position:

a. Where police bail is denied to an Aboriginal person or granted on terms the person cannot meet, the Aboriginal Legal Service, or a person nominated by the Service, be notified of that fact;

b. An officer of the Aboriginal Legal Service or such other person as is nominated by the Service, be granted access to a person held in custody without bail; and

c. There be a statutory requirement that the officer in charge of a station to whom an arrested person is taken give to that person, in writing, a notification of his/her right to apply for bail and to pursue a review of the decision if bail is refused and of how to exercise those rights. (3:54)

91. That governments, in conjunction with Aboriginal Legal Services and Police Services, give consideration to amending bail legislation:

a. to enable the same or another police officer to review a refusal of bail by a police officer,

b. to revise any criteria which inappropriately restrict the granting of bail to Aboriginal people; and

c. to enable police officers to release a person on bail at or near the place of arrest without necessarily conveying the person to a police station. (3:55)

Imprisonment as a Last Resort

92. That governments which have not already done so should legislate to enforce the principle that imprisonment should be utilised only as a sanction of last resort. (3:64)

93. That governments should consider whether legislation should provide, in the interests of rehabilitation, that criminal records be expunged to remove references to past convictions after a lapse of time since last conviction and particularly whether convictions as a juvenile should not be expunged after, say, two years of non-conviction as an adult. (3:64)

94. That:

a. Sentencing and correctional authorities should accept that community service may be performed in many ways by an offender placed on a community service order;, and

b. Consistent with the object of ensuring that offenders do not re-offend, approval should be given, where appropriate, for offenders to perform Community Service work by pursuing personal development courses which might provide the offender with skills, knowledge, interests, treatment or counselling likely to reduce the risk of re-offending. (3:71)

95. That in jurisdictions where motor vehicle offences are a significant cause of Aboriginal imprisonment the factors relevant to such incidence be identified, and, in conjunction with Aboriginal community organisations, programs be designed to reduce that incidence of offending. (3:71)

96. That judicial officers and persons who work in the court service and in the probation and parole services and whose duties bring them into contact with Aboriginal people be encouraged to participate in an appropriate training and development program, designed to explain contemporary Aboriginal society, customs and traditions. Such programs should emphasise the historical and social factors which contribute to the disadvantaged position of many Aboriginal people today and to the nature of relations between Aboriginal and non-Aboriginal communities today. The Commission further recommends that such persons should wherever possible participate in discussion with members of the Aboriginal community in an informal way in order to improve cross-cultural understanding. (3:79)

97. That in devising and implementing courses referred to in Recommendation 96 the responsible authorities should ensure that consultation takes place with appropriate Aboriginal organisations, including, but not limited to, Aboriginal Legal Services. (3:79)

98. Those jurisdictions which have not already done so should phase out the use of Justices of the Peace for the determination of charges or for the imposition of penalties for offences. (3:79)

99. That legislation in all jurisdictions should provide that where an Aboriginal defendant appears before a Court and there is doubt as to whether the person has the ability to fully understand proceedings in the English language and is fully able to express himself or herself in the English language, the court be obliged to satisfy itself that the person has that ability. Where there is doubt or reservations as to these matters proceedings should not continue until a competent interpreter is provided to the person without cost to that person. (3:79)

100. That governments should take more positive steps to recruit and train Aboriginal people as court staff and interpreters in locations where significant numbers of Aboriginal people appear before the courts. (3:80)

101. That authorities concerned with the administration of non-custodial sentencing orders take responsibility for advising sentencing authorities as to the scope and effectiveness of such programs. (3:80)

102. That, in the first instance, proceedings for a breach of a non- custodial order should ordinarily be commenced by summons or attendance notice and not by arrest of the offender. (3:80)

103. That in jurisdictions where a Community Service Order may be imposed for fine default, the dollar value of a day's service should be greater than and certainly not less than, the dollar value of a day served in prison. (3:80)

104. That in the case of discrete or remote communities sentencing authorities consult with Aboriginal communities and organisations as to the general range of sentences which the community considers appropriate for offences committed within the communities by members of those communities and, further, that subject to preserving the civil and legal rights of offenders and victims such consultation should in appropriate circumstances relate to sentences in individual cases. (3:85)

105. That in providing funding to Aboriginal Legal Services governments should recognise that Aboriginal Legal Services have a wider role to perform than their immediate task of ensuring the representation and provision of legal advice to Aboriginal persons. The role of the Aboriginal Legal Services includes investigation and research into areas of law reform in both criminal and civil fields which relate to the involvement of Aboriginal people in the system of justice in Australia. In fulfilling this role Aboriginal Legal Services require access to, and the opportunity to conduct, research. (3:91)

106. That Aboriginal Legal Services recognise the need for maintaining close contact with the Aboriginal communities which they serve. It should be recognised that where charges are laid against individuals there may be a conflict of interests between the rights of the individual and the interests of the Aboriginal community as perceived by that community; in such cases arrangements may need to be made to ensure that both interests are separately represented and presented to the court. Funding authorities should recognise that such conflicts of interest may require separate legal representation for the individual and the community. (3:91)

107. That in order that Aboriginal Legal Services may maintain close contact with, and efficiently serve Aboriginal

communities, weight should be attached to community wishes for autonomous regional services or for the regional location of solicitors and field officers. (3:91)

108. That it be recognised by Aboriginal Legal Services, funding authorities and courts that lawyers cannot adequately represent clients unless they have adequate time to take instructions and prepare cases, and that this is a special problem in communities without access to lawyers other than at the time of court hearings. (3:91)

109. That State and Territory Governments examine the range of non-custodial sentencing options available in each jurisdiction with a view to ensuring that an appropriate range of such options is available. (3:96)

110. That in view of the wide variety of pre-release and post-release support schemes conducted by Corrective Services authorities and other agencies and organisations in various parts of the country it is the view of the Commission that a national study designed to ascertain the best features of existing schemes with a view to ensuring their widespread application is highly desirable. In such a study it is most important that consultation take place with relevant Aboriginal organisations. (3:96)

111. That in reviewing options for non-custodial sentences governments should consult with Aboriginal communities and groups, especially with representatives of Aboriginal Legal Services and with Aboriginal employees with relevant experience in government departments. (3:96)

112. That adequate resources be made available to provide support by way of personnel and infrastructure so as to ensure that non-custodial sentencing options which are made available by legislation are capable of implementation in practice. It is particularly important that such support be provided in rural and remote areas of significant Aboriginal population. (3:96)

113. That where non-custodial sentencing orders provide for a community work or development program as a condition of the order the authorities responsible for the program should ensure that the local Aboriginal community participates, if its members so choose, in the planning and implementation of the program. Further, that Aboriginal community organisations be encouraged to become participating agencies in such programs. (3:97)

114. Wherever possible, departments and agencies responsible for non-custodial sentencing programs for Aboriginal persons should employ and wain Aboriginal people to take particular responsibility for the implementation of such programs and should employ and train Aboriginal people to assist to educate and inform the community as to the range and implementation of non-custodial sentencing options. (3:97)

115. That for the purpose of assessing the efficacy of sentencing options and for devising strategies for the rehabilitation of offenders it is important that governments ensure that statistical and other information is recorded to enable an understanding of Aboriginal rates of recidivism and the effectiveness of various non-custodial sentencing orders and parole. (3:97)

116. That persons responsible for devising work programs on Community Service Orders in Aboriginal communities consult closely with the community to ensure that work is directed which is seen to have value to the community. Work performed under Community Service Orders should not, however, be performed at the expense of paid employment which would otherwise be available to members of the Aboriginal community. (3: 109)

117. That where in any jurisdiction the consequence of a breach of a community service order, whether imposed by the court or as a fine default option, may be a term of imprisonment, legislation be amended to provide that the imprisonment must be subject to determination by a magistrate or judge who should be authorised to make orders other than imprisonment if he or she deems it appropriate. (3: 109)

118. That where not presently available, home detention be provided both as a sentencing option available to courts as well as a means of early release of prisoners. (3:114)

119. That Corrective Services authorities ensure that Aboriginal offenders are not being denied opportunities for probation and parole by virtue of the lack of adequate numbers of trained support staff or of infrastructure to ensure

monitoring of such orders. (3:117)

120. That governments consider introducing an ongoing amnesty on the execution of long outstanding warrants of commitment for unpaid fines. (3:126)

121. That:

a. Where legislation does not already so provide governments should ensure that sentences of imprisonment are not automatically imposed in default of payment of a fine; and

b. Such legislation should provide alternative sanctions and impose a statutory duty upon sentencers to consider a defendant's capacity to pay in assessing the appropriate monetary penalty and time to pay, by instalments or otherwise. (3:126)

Custodial Health and Safety

122. That Governments ensure that:

a. Police Services, Corrective Services, and authorities in charge of juvenile centres recognise that they owe a legal duty of care to persons in their custody;

b. That the standing instructions to the officers of these authorities specify that each officer involved in the arrest, incarceration or supervision of a person in custody has a legal duty of care to that person, and may be held legally responsible for the death or injury of the person caused or contributed to by a breach of that duty; and

c. That these authorities ensure that such officers are aware of their responsibilities and trained appropriately to meet them, both on recruitment and during their service. (3:189)

123. That Police and Corrective Services establish clear policies in relation to breaches of departmental instructions. Instructions relating to the care of persons in custody should be in mandatory terms and be both enforceable and enforced. Procedures should be put in place to ensure that such instructions are brought to the attention of and are understood by all officers and that those officers are made aware that the instructions will be enforced. Such instructions should be available to the public. (3:193)

124. That Police and Corrective Services should each establish procedures for the conduct of de-briefing sessions following incidents of importance such as deaths, medical emergencies or actual or attempted suicides so that the operation of procedures, the actions of those involved and the application of instructions to specific situations can be discussed and assessed with a view to reducing risks in the future. (3: 194)

125. That in all jurisdictions a screening form be introduced as a routine element in the reception of persons into police custody. The effectiveness of such forms and of procedures adopted with respect to the completion of such should be evaluated in the light of the experience of the use of such forms in other jurisdictions. (3:241)

126. That in every case of a person being taken into custody, and immediately before that person is placed in a cell, a screening form should be completed and a risk assessment made by a police officer or such other person, not being a police officer, who is trained and designated as the person responsible for the completion of such forms and the assessment of prisoners. The assessment of a detainee and other procedures relating to the completion of the screening form should be completed with care and thoroughness. (3:241)

127. That Police Services should move immediately in negotiation with Aboriginal Health Services and government health and medical agencies to examine the delivery of medical services to persons in police custody. Such examination should include, but not be limited to, the following:

a. The introduction of a regular medical or nursing presence in all principal watch-houses in capital cities and in such

other major centres as have substantial numbers detained;

b. In other locations, the establishment of arrangements to have medical practitioners or trained nurses readily available to attend police watch-houses for the purpose of identifying those prisoners who are at risk through illness, injury or serf-harm at the time of reception;

c. The involvement of Aboriginal Health Services in the provision of health and medical advice, assistance and care with respect to Aboriginal detainees and the funding arrangements necessary for them to facilitate their greater involvement;

d. The establishment of locally based protocols between police, medical and para-medical agencies to facilitate the provision of medical assistance to all persons in police custody where the need arises;

e. The establishment of proper systems of liaison between Aboriginal Health Services and police so as to ensure the transfer of information relevant to the health, medical needs and risk status of Aboriginal persons taken into police custody; and

f. The development of protocols for the care and management of Aboriginal prisoners at risk, with attention to be given to the specific action to be taken by officers with respect to the management of:

i. intoxicated persons;

ii. persons who are known to suffer from illnesses such as epilepsy, diabetes or heart disease or other serious medical conditions;

iii. persons who make any attempt to harm themselves or who exhibit a tendency to violent, irrational or potentially self-injurious behaviour,

iv. persons with an impaired state of consciousness;

v. angry, aggressive or otherwise disturbed persons;

vi. persons suffering from mental illness;

vii. other serious medical conditions;

viii. persons in possession of, or requiring access to,medication; and

ix. such other persons or situations as agreed. (3:242)

128. That where persons are held in police watch-houses on behalf of a Corrective Services authority, that authority arrange, in consultation with Police Services, for medical services (and as far as possible other services) to be provided not less adequate than those that are provided in correctional institutions. (3:243)

129. That the use of breath analysis equipment to test the blood alcohol levels at the time of reception of persons taken into custody be thoroughly evaluated by Police Services in consultation with Aboriginal Legal Services, Aboriginal Health Services, health departments and relevant agencies. (3:243)

130. That:

a. Protocols be established for the transfer between Police and Corrective Services of information about the physical or mental condition of an Aboriginal person which may create or increase the risks of death or injury to that person when in custody;

b. In developing such protocols, Police Services, Corrective Services and health authorities with Aboriginal Legal Services and Aboriginal Health Services should establish procedures for the transfer of such information and establish

necessary safe-guards to protect the rights of privacy and confidentiality of individual prisoners to the extent compatible with adequate care; and

c. Such protocols should be subject to relevant ministerial approval. (3:243)

131. That where police officers in charge of prisoners acquire information relating to the medical condition of a prisoner, either because they observe that condition or because the information is voluntarily disclosed to them, such information should be recorded where it may be accessed by any other police officer charged with the supervision of that prisoner. Such information should be added to the screening form referred to in Recommendation 126 or filed in association with it. (3:244)

132. That:

a. Police instructions should require that the officer in charge of an outgoing shift draw to the attention of the officer in charge of the incoming shift any information relating to the well being of any prisoner or detainee and, in particular, any medical attention required by any prisoner or detainee;

b. A written check list should be devised setting out those matters which should be addressed, both in writing and orally, at the time of any such handover of shift; and

c. Police services should assess the need for an appropriate form or process of record keeping to be devised to ensure adequate and appropriate notation of such matters. (3:244)

133. That:

a. All police officers should receive training at both recruit and in-service levels to enable them to identify persons in distress or at risk of death or injury through illness, injury or serf-harm;

b. Such training should include information as to the general health status of the Aboriginal population, the dangers and misconceptions associated with intoxication, the dangers associated with detaining unconscious or semi-rousable persons and the specific action to be taken by officers in relation to those matters which are to be the subject of protocols referred to in Recommendation 127;

c. In designing and delivering such training programs, custodial authorities should seek the advice and assistance of Aboriginal Health Services and Aboriginal Legal Services; and

d. Where a police officer or other person is designated or recognised by a police service as being a person whose work is dedicated wholly or substantially to cell guard duties then such person should receive a more intensive and specialised training than would be appropriate for other officers. (3:245)

134. That police instructions should require that, at all times, police should interact with detainees in a manner which is both humane and courteous. Police authorities should regard it as a serious breach of discipline for an officer to speak to a detainee in a deliberately hurtful or provocative manner. (3:245)

135. In no case should a person be transported by police to a watch- house when that person is either unconscious or not easily roused. Such persons must be immediately taken to a hospital or medical practitioner or, if neither is available, to a nurse or other person qualified to assess their health. (3:246)

136. That a person found to be unconscious or not easily rousable whilst in a watch-house or cell must be immediately conveyed to a hospital, medical practitioner or a nurse. (Where quicker medical aid can be summoned to the watch-house or cell or there are reasons for believing that movement may be dangerous for the health of the detainee, such medical attendance should be sought). (3:246)

137. That:

a. Police instructions and training should require that regular, careful and thorough checks of all detainees in police custody be made;

b. During the first two hours of detention, a detainee should be checked at intervals of not greater than fifteen minutes and that thereafter checks should be conducted at intervals of no greater than one hour;

c. Notwithstanding the provision of electronic surveillance equipment, the monitoring of such persons in the periods described above should at all times be made in person. Where a detainee is awake, the check should involve conversation with that person. Where the person is sleeping the officer checking should ensure that the person is breathing comfortably and is in a safe posture and otherwise appears not to be at risk. Where there is any reason for the inspecting officer to be concerned about the physical or mental condition of a detainee, that person should be woken and checked; and

d. Where any detainee has been identified as, or is suspected to be, a prisoner at risk then the prisoner or detainee should be subject to checking which is closer and more frequent than the standard. (3:246)

138. That police instructions should require the adequate recording, in relevant journals, of observations and information regarding complaints, requests or behaviour relating to mental or physical health, medical attention offered and/or provided to detainees and any other matters relating to the well being of detainees. Instructions should also require the recording of all cell checks conducted. (3:247)

139. The Commission notes recent moves by Police Services to install TV monitoring devices in police cells. The Commission recommends that:

a. The emphasis in any consideration of proper systems for surveillance of those in custody should be on human interaction rather than on high technology. The psychological impact of the use of such equipment on a detainee must be boree in mind, as should its impact on that person's privacy. It is preferable that police cells be designed to maximise direct visual surveillance. Where such equipment has been installed it should be used only as a monitoring aid and not as a substitute for human interaction between the detainee and his/her custodians; and

b. Police instructions specifically direct that, even where electronic monitoring cameras are installed in police cells, personal cell checks be maintained. (3:247)

140. That as soon as practicable, all cells should be equipped with an alarm or intercom system which gives direct communication to custodians. This should be pursued as a matter of urgency at those police watch-houses where surveillance resources are limited. (3:247)

141. That no person should be detained in a police cell unless a police officer is in attendance at the watch-house and is able to perform duties of care and supervision of the detainee. Where a person is detained in a police cell and a police officer is not so available then the watch-house should be attended by a person capable of providing care and supervision of persons detained. (3:248)

142. That the installation and/or use of padded cells in police watch- houses for punitive purposes or for the management of those at risk should be discontinued immediately. (3:248)

143. All persons taken into custody, including those persons detained for intoxication, should be provided with a proper meal at regular meal times. The practice operating in some jurisdictions of excluding persons detained for intoxication from being provided with meals should be reviewed as a matter of priority. (3:248)

144. That in all cases, unless there are substantial grounds for believing that the well being of the detainee or other persons detained would be prejudiced, an Aboriginal detainee should not be placed alone in a police cell. Wherever possible an Aboriginal detainee should be accommodated with another Aboriginal person. The views of the Aboriginal detainee and such other detainee as may be affected should be sought. Where placement in a cell alone is the only alternative the detainee should thereafter be treated as a person who requires careful surveillance. (3:248)

145. That:

a. In consultation with Aboriginal communities and their organisations, cell visitor schemes (or schemes serving similar purposes) should be introduced to service police watch-houses wherever practicable;

b. Where such cell visitor schemes do not presently exist and where there is a need or an expressed interest by Aboriginal persons in the creation of such a scheme, government should undertake negotiations with local Aboriginal groups and organisations towards the establishment of such a scheme. The involvement of the Aboriginal community should be sought in the management and operation of the schemes. Adequate training should be provided to persons participating in such schemes. Governments should ensure that cell visitor schemes receive appropriate funding;

c. Where police cell visitor schemes are established it should be made clear to police officers performing duties as custodians of those detained in police cells that the operation of the cell visitor scheme does not lessen, to any degree, the duty of care owed by them to detainees; and

d. Aboriginal participants in cell visitor schemes should be those nominated or approved by appropriate Aboriginal communities and/or organisations as well as by any other person whose approval is required by local practice. (3:249)

146. That police should take all reasonable steps to both encourage and facilitate the visits by family and friends of persons detained in police custody. (3:249)

147. That police instructions should be amended to make it mandatory for police to immediately notify the relatives of a detainee who is regarded as being 'at risk', or who has been transferred to hospital. (3:249)

148. That whilst there can be little doubt that some police cell accommodation is entirely substandard and must be improved over time, expenditure on positive initiatives to reduce the number of Aboriginal people in custody discussed elsewhere in this report constitutes a more pressing priority as far as resources are concerned. Where cells of a higher standard are available at no great distance, these may be able to be used. More immediate attention must be given to programs diverting people from custody, to the provision of alternative accommodation to police cells for intoxicated persons, to ball procedures and to proceeding by way of summons or caution rather than by way of arrest. All these initiatives will reduce the call on outmoded cells. The highest priority is to reduce the numbers for whom cell accommodation is required. Where, however, it is determined that new cell accommodation must be provided in areas of high Aboriginal population, the views of the local Aboriginal community and organisations should be taken into account in the design of such accommodation. The design or re-design of any police cell should emphasise and facilitate personal interaction between custodial officers and detainees and between detainees and visitors. (3:250)

149. That Police Services should recognise, by appropriate instructions, the need to permit flexible custody arrangements which enable police to grant greater physical freedoms and practical liberties to Aboriginal detainees. The Commission recommends that the instructions acknowledge the fact that in appropriate circumstances it is consistent with the interest of the public and also the well being of detainees to permit some freedom of movement within or outside the confines of watch-houses. (3:250)

150. That the health care available to persons in correctional institutions should be of an equivalent standard to that available to the general public. Services provided to inmates of correctional institutions should include medical, dental, mental health, drug and alcohol services provided either within the correctional institution or made available by ready access to community facilities and services. Health services provided within correctional institutions should be adequately resourced and be staffed by appropriately qualified and competent personnel. Such services should be both accessible and appropriate to Aboriginal prisoners. Correctional institutions should provide 24 hour a day access to medical practitioners and nursing staff who are either available on the premises, or on call. (3:278)

151. That, wherever possible, Aboriginal prisoners or detainees requiring psychiatric assessment or treatment should be referred to a psychiatrist with knowledge and experience of Aboriginal persons. The Commission recognises that there are limited numbers of psychiatrists with such experience. The Commission notes that, in many instances, medical practitioners who are or have been employed by Aboriginal Health Services are not specialists in psychiatry, but have experience and knowledge which would benefit inmates requiring psychiatric assessment or care. (3:278)

152. That Corrective Services in conjunction with Aboriginal Health Services and such other bodies as may be appropriate should review the provision of health services to Aboriginal prisoners in correctional institutions and have regard to, and report upon, the following matters together with other matters thought appropriate:

a. The standard of general and mental health care available to Aboriginal prisoners in each correctional institution;

b. The extent to which services provided are culturally appropriate for and are used by Aboriginal inmates. Particular attention should he given to drug and alcohol treatment, rehabilitative and preventative education and counselling programs for Aboriginal prisoners. Such programs should be provided, where possible, by Aboriginal people;

c. The involvement of Aboriginal Health Services in the provision of general and mental health care to Aboriginal prisoners;

d. The development of appropriate facilities for the behaviourally disturbed;

e. The exchange of relevant information between prison medical staff and external health and medical agencies, including Aboriginal Health Services, as to risk factors in the detention of any Aboriginal inmate, and as to the protection of the rights of privacy and confidentiality of such inmates so far as is consistent with their proper care;

f. The establishment of detailed guidelines governing the exchange of information between prison medical staff, corrections officers and corrections administrators with respect to the health and safety of prisoners. Such guidelines must recognise both the rights of prisoners to confidentiality and privacy and the responsibilities of corrections officers for the informed care of prisoners. Such guidelines must also be public and be available to prisoners; and

g. The development of protocols detailing the specific action to be taken by officers with respect to the care and management of:

i. persons identified at the screening assessment on reception as being at risk or requiring any special consideration for whatever reason;

ii. intoxicated or drug affected persons, or persons with drug or alcohol related conditions;

iii. persons who are known to suffer from any serious illnesses or conditions such as epilepsy, diabetes or

iv. persons who have made any attempt to harm themselves or who exhibit, or are believed to have exhibited, a tendency to violent, irrational or potentially self-injurious behaviour,

v. apparently angry, aggressive or disturbed persons;

vi. persons suffering from mental illness; vii. other serious medical conditions; viii. persons on medication; and

ix. such other persons or situations as agreed. (3:278)

153. That:

a. Prison Medical Services should be the subject of ongoing review in the light of experiences in all jurisdictions;

b. The issue of confidentiality between prison medical staff and prisoners should be addressed by the relevant bodies, including prisoner groups; and

c. Whatever administrative model for the delivery of prison medical services is adopted, it is essential that medical staff should be responsible to professional medical officers rather than to prison administrators. (3:280)

154. That:

a. All staff of Prison Medical Services should receive training to ensure that they have an understanding and appreciation of those issues which relate to Aboriginal health, including Aboriginal history, culture and life-style so as to assist them in their dealings with Aboriginal people;

b. Prison Medical Services consult with Aboriginal Health Services as to the information and training which would be appropriate for staff of Prison Medical Services in their dealings with Aboriginal people; and

c. Those agencies responsible for the delivery of health services in correctional institutions should endeavour to employ Aboriginal persons in those services. (3:281)

155. That recruit and in-service training of prison officers should include information as to the general health status of Aboriginal people and be designed to alert such officers to the foreseeable risk of Aboriginal people in their care suffering from those illnesses and conditions endemic to the Aboriginal population. Officers should also be trained to better enable them to identify persons in distress or at risk of death or harm through illness, injury or self-harm. Such training should also include training in the specific action to be taken in relation to the matters which are to be the subject of protocols referred to in Recommendation 152 (g). (3:281)

156. That upon initial reception at a prison all Aboriginal prisoners should be subject to a thorough medical assessment with a view to determining whether the prisoner is at risk of injury, illness or self-harm. Such assessment on initial reception should be provided, wherever possible, by a medical practitioner. Where this is not possible, it should be performed within 24 hours by a medical practitioner or trained nurse. Where such assessment is performed by a trained nurse rather than a medical practitioner then examination by a medical practitioner should be provided within 72 hours of reception or at such earlier time as is requested by the trained nurse who performed such earlier assessment, or by the prisoner. Where upon assessment by a medical practitioner, trained nurse or such other person as performs an assessment within 72 hours of prisoners' reception it is believed that psychiatric assessment is required then the Prison Medical Service should ensure that the prisoner is examined by a psychiatrist at the earliest possible opportunity. In this case, the matters referred to in Recommendation 151 should be taken into account. (3:281)

157. That, as part of the assessment procedure outlined in Recommendation 156, efforts must be made by the Prison Medical Service to obtain a comprehensive medical history for the prisoner including medical records from a previous occasion of imprisonment, and where necessary, prior treatment records from hospitals and health services. In order to facilitate this process, procedures should be established to ensure that a prisoner's medical history files accompany the prisoner on transfer to other institutions and upon re-admission and that negotiations are undertaken between prison medical, hospital and health services to establish guidelines for the transfer of such information. (3:282)

158. That, while recognising the importance of preserving the scene of a death in custody for forensic examination, the first priority for officers finding a person, apparently dead, should be to attempt resuscitation and to seek medical assistance. (3:289)

159. That all prisons and police watch-houses should have resuscitation equipment of the safest and most effective type readily available in the event of emergency and staff who are trained in the use of such equipment (3:290)

160. That:

a. All police and prison officers should receive basic training at recruit level in resuscitative measures, including mouth to mouth and cardiac massage, and should be trained to know when it is appropriate to attempt resuscitation; and

b. Annual refresher courses in first aid be provided to all prison officers, and to those police officers who routinely have the care of persons in custody. (3:290)

161. That police and prison officers should be instructed to immediately seek medical attention if any doubt arises as to a detainee's condition. (3:290)

162. That governments give careful consideration to laws and standing orders or instructions relating to the circumstances in which police or prison officers may discharge firearms to effect arrests or to prevent escapes or

otherwise. All officers who use firearms should be trained in methods of weapons retention that minimise the risk of accidental discharge. (3:290)

163. That police and prison officers should receive regular training in restraint techniques, including the application of restraint equipment. The Commission further recommends that the training of prison and police officers in the use of restraint techniques should be complemented with training which positively discourages the use of physical restraint methods except in circumstances where the use of force is unavoidable. Restraint aids should only be used as a last resort. (3:290)

164. The Commission has noted that research has revealed that in a significant number of cases detainees or prisoners who had inflicted self-harm were subsequently charged with an offence arising from the incident. The Commission recommends that great care be exercised in laying any charges arising out of incidents of attempted self-harm and further recommends that no such charges be laid, at all, where self-harm actually results from the action of the prisoner or detainee (subject to a possible exception where there is clear evidence that the harm was occasioned for the purpose of gaining some second advantage). (3:291)

165. The Commission notes that prisons and police stations may contain equipment which is essential for the provision of services within the institution but which may also be capable, if misused, of causing harm or self-harm to a prisoner or detainee. The Commission notes that in one case death resulted from the inhalation of fumes from a fire extinguisher. Whilst recognising the difficulties of eliminating all such items which may be potentially dangerous the Commission recommends that Police and Corrective Services authorities should carefully scrutinise equipment and facilities provided at institutions with a view to eliminating and/or reducing the potential for harm. Similarly, steps should be taken to screen hanging points in police and prison cells. (3:291)

166. That machinery should be put in place for the exchange, between Police and Corrective Services authorities, of information relating to the care of prisoners. (3:291)

167. That the practices and procedures operating in juvenile detention centres be reviewed in light of the principles underlying the recommendations relating to police and prison custody in this report, with a view to ensuring that no lesser standards of care are applied in such centres. (3:292)

The Prison Experience

168. That Corrective Services effect the placement and transfer of Aboriginal prisoners according to the principle that, where possible, an Aboriginal prisoner should be placed in an institution as close as possible to the place of residence of his or her family. Where an Aboriginal prisoner is subject to a transfer to an institution further away from his or her family the prisoner should be given the fight to appeal that decision. (3:310)

169. That where it is found to be impossible to place a prisoner in the prison nearest to his or her family sympathetic consideration should be given to providing financial assistance to the family, to visit the prisoner from time to time. (3:312)

170. That all correctional institutions should have adequate facilities for the conduct of visits by friends and family. Such facilities should enable prisoners to enjoy visits in relative privacy and should provide facilities for children that enable relatively normal family interaction to occur. The intervention of correctional officers in the conduct of such visits should be minimal, although these visits should be subject to adequate security arrangements. (3:312)

171. That Corrective Services give recognition to the special kinship and family obligations of Aboriginal prisoners which extend beyond the immediate family and give favourable consideration to requests for permission to attend funeral services and burials and other occasions of very special family significance. (3:313)

172. That Aboriginal prisoners should be entitled to receive periodic visits from representatives of Aboriginal organisations, including Aboriginal Legal Services (3:3 14)

173. That initiatives directed to providing a more humane environment through introducing shared accommodation facilities for community living, and other means should be supported, and pursued in accordance with experience and subject to security requirements. (3:316)

174. That all Corrective Services authorities employ Aboriginal Welfare Officers to assist Aboriginal prisoners, not only with respect to any problems they might be experiencing inside the institution but also in respect of welfare matters extending outside the institution, and that such an officer be located at or frequently visit each institution with a significant Aboriginal population. (3:318

175. That consideration be given to the principle involved in the submission made by the Western Australian Prison Officers' Union that there be a short transition period in a custodial setting for prisoners prior to them entering prison routine. (3:318)

176. That consideration should be given to the establishment in respect of each prison within a State or Territory of a Complaints Officer whose function is:

a. To attend at the prison at regular (perhaps weekly) intervals or on special request for the purpose of receiving from any prisoner any complaint concerning any matter internal to the institution, which complaint shall be lodged in person by the complainant;

b. To take such action as the officer thinks appropriate in the circumstances;

c. To require any person to make enquiries and report to the officer,

d. To attempt to settle the complaint;

e. To reach a finding (if possible) on the substance of the complaint and to recommend what action if any, should be taken arising out of the complaint; and

f. To report to the complainant, the senior officer of the prison and the appointing Minister (see below) the terms of the complaint, the action taken and the findings made.

This person should be appointed by, be responsible to and report to the Ombudsman, Attorney-General or Minister for Justice. Complaints receivable by this person should include, without in any way limiting the scope of complaints, a complaint from an earlier complainant that he or she has suffered some disadvantage as a consequence of such earlier complaint. (3:321)

177. That appropriate screening procedures should be implemented to ensure that potential officers who will have contact with Aboriginal people in their duties are not recruited or retained by police and prison departments whilst holding racist views which cannot be eliminated by training or re-training programs. In addition Corrective Services authorities should ensure that all correctional officers receive cross-cultural education and an understanding of Aboriginal-non-Aboriginal relations in the past and the present. Where possible, that aspect of training should be conducted by Aboriginal people (including Aboriginal ex-prisoners). Such training should be aimed at enhancing the correctional officers' skills in cross-cultural communication with and relating to Aboriginal prisoners. (3:327)

178. That Corrective Services make efforts to recruit Aboriginal staff not only as correctional officers but to all employment classifications within Corrective Services. (3:329)

179. That procedures whereby a prisoner appears before an officer for the purpose of making a request, or for the purpose of taking up any matter which can appropriately be taken up by the prisoner before that officer, should be made as simple as possible and that the necessary arrangements should be made as quickly as possible under the circumstances. (3:331)

180. That where a prisoner is charged with an offence which will be dealt with by a Visiting Justice, that Justice should be a Magistrate. A charge involving the possibility of affecting the period of imprisonment should always be

dealt with in this way. All charges of offences against the general law should be heard in public courts. (3:333)

181. That Corrective Services should recognise that it is undesirable in the highest degree that an Aboriginal prisoner should be placed in segregation or isolated detention. In any event, Corrective Services authorities should provide certain minimum standards for segregation including fresh air, lighting, daily exercise, adequate clothing and heating, adequate food, water and sanitation facilities and some access to visitors. (3:334)

182. That instructions should require that, at all times, correctional officers should interact with prisoners in a manner which is both humane and courteous. Corrective Services authorities should regard it as a serious breach of discipline for an officer to speak to a prisoner in a deliberately hurtful or provocative manner. (3:335)

183. That Corrective Services authorities should make a formal commitment to allow Aboriginal prisoners to establish and maintain Aboriginal support groups within institutions. Such Aboriginal prisoner support groups should be permitted to hold regular meetings in institutions, liaise with Aboriginal service organisations outside the institution and should receive a modest amount of administrative assistance for the production of group materials and services. corrective service authorities should negotiate with such groups for the provision of educational and cultural services to Aboriginal prisoners and favourably consider the formal recognition of such bodies as capable of representing the interests and viewpoints of Aboriginal prisoners. (3:338)

184. That Corrective Services authorities ensure that all Aboriginal prisoners in all institutions have the opportunity to perform meaningful work and to undertake educational courses in self- development, skills acquisition, vocational education and training including education in Aboriginal history and culture. Where appropriate special consideration should be given to appropriate teaching methods and learning dispositions of Aboriginal prisoners. (3:353)

185. That the Department of Education, Employment and Training be responsible for the development of a comprehensive national strategy designed to improve the opportunities for the education and training of those in custody. This should be done in co- operation with state Corrective Services authorities, adult education providers (including in particular independent Aboriginal-controlled providers) and State departments of employment and education. The aim of the strategy should be to extend the aims of the Aboriginal Education Policy and the Aboriginal Employment Development Policy to Aboriginal prisoners, and to develop suitable mechanisms for the delivery of education and training programs to prisoners. (3:353)

186. That prisoners, including Aboriginal prisoners, should receive remuneration for work performed. In order to encourage Aboriginal prisoners to overcome the educational disadvantage, which most Aboriginal people presently suffer, Aboriginal prisoners who pursue education or training courses during the hours when other prisoners are involved in remunerated work should receive the same level of remuneration. (This recommendation is not intended to apply to study undertaken outside the normal hours of work of prisoners.) (3:357)

187. That experiences in and the results of community corrections rather than institutional custodial corrections should be closely studied by Corrective Services and that the greater involvement of communities and Aboriginal organisations in correctional processes be supported. (3:358)

The Path to Self-Determination

188. That governments negotiate with appropriate Aboriginal organisations and communities to determine guidelines as to the procedures and processes which should be followed to ensure that the self-determination principle is applied in the design and implementation of any policy or program or the substantial modification of any policy or program which will particularly affect Aboriginal people. (4:7)

189. That the Commonwealth Government give consideration to constituting ATSIC as an employing authority independent of the Australian Public Service. (4: 12)

190. That the Commonwealth Government, in conjunction with the State and Territory Governments, develop proposals for implementing a system of block grant funding of Aboriginal communities and organisations and also

implement a system whereby Aboriginal communities and organisations are provided with a minimum level of funding on a triennial basis. (4:4.21)

191. That the Commonwealth Government, in conjunction with the State and Territory Governments, develop means by which all sources of funds provided for or identified as being available to Aboriginal communities or organisations wherever possible be allocated through a single source with one set of audit and financial requirements but with the maximum devolution of power to the communities and organisations to determine the priorities for the allocation of such funds. (4:21)

192. That in the implementation of any policy or program which will particularly affect Aboriginal people the delivery of the program should, as a matter of preference, be made by such Aboriginal organisations as are appropriate to deliver services pursuant to the policy or program on a contractual basis. Where no appropriate Aboriginal organisation is available to provide such service then any agency of government delivering the service should, in consultation with appropriate Aboriginal organisations and communities, ensure that the processes to be adopted by the agency in the delivery of services are appropriate to the needs of the Aboriginal people and communities receiving such services. Particular emphasis should be given to the employment of Aboriginal people by the agency in the delivery of such services and in the design and management of the process adopted by the agency. (4:28)

193. That the Commonwealth Government, in negotiation with appropriate Aboriginal organisations, devise a procedure which will enable Aboriginal communities and organisations to properly account to government for funding but which will be least onerous and as convenient and simple as possible for the Aboriginal organisations and communities to operate. The Commission further recommends that State and Territory Governments adopt the same procedure, once agreed, and with as few modifications as may be essential for implementation, in programs funded by those governments.

194. That Commonwealth, State and Territory Governments, in negotiation with appropriate Aboriginal communities and organisations, agree upon appropriate performance indicators for programs relevant to Aboriginal communities and organisations. The Commission further recommends that governments fund Aboriginal organisations and communities to enable the appropriate level of infrastructure and training as is required to develop, apply and monitor performance indicators. (4:29)

195. That, subject to appropriate provision to ensure accountability to government for funds received, payments by government to Aboriginal organisations and communities be made on the basis of triennial rather than annual or quarterly funding. (4:30)

196. That whilst governments are entitled to require a proper system for accounting of funds provided to Aboriginal organisations and communities, those organisations and communities are equally entitled to receive a full explanation of the funding processes which are adopted by governments. The Commission recommends that governments ensure that Aboriginal communities and organisations are given prompt advice, in writing and in plain English or, where appropriate, in Aboriginal languages, as to decisions concerning funding applications and as to financial and other matters relevant to the assessment of applications for funding made by those organisations and communities so as to enable those organisations and communities to make appropriate planning decisions. (4:30)

197. That ATSIC Councillors and Commissioners at an early stage be encouraged to consult with Aboriginal organisations and communities to develop a program for training staff of Aboriginal organisations and communities in appropriate management and accounting procedures to ensure the efficiency and integrity of the organisations which are culturally appropriate. In particular, there should be a commitment to devising management procedures which provide rules for the relationship, obligations and rights, both individually and as between each other, of directors, managers and staff of Aboriginal organisations. (4:30)

198. That governments commit themselves to achieving the objective that Aboriginal people are not discriminated against in the delivery of essential services and, in particular, are not disadvantaged by the fact that the low levels of income received by Aboriginal people reduce their ability to contribute to the provision of such services to the same extent as would be possible by non-Aboriginal Australians living in similar circumstances and locations. (4:38)

199. That governments recognise that a variety of organisational structures have developed or been adapted by Aboriginal people to deliver services, including local government type services to Aboriginal communities. These structures include community councils recognised as local government authorities, outstation resource centres, Aboriginal land councils and co-operatives and other bodies incorporated under Commonwealth, State and Territory legislation as councils or associations. Organisational structures which have received acceptance within an Aboriginal community are particularly important, not only because they deliver services in a manner which makes them accountable to the Aboriginal communities concerned but also because acceptance of the role of such organisations recognises the principle of Aboriginal self-determination. The Commission recommends that government should recognise such diversity in organisational structures and that funding for the delivery of services should not be dependent upon the structure of organisation which is adopted by Aboriginal communities for the delivery of such services. (4:38)

200. That the Commonwealth Government negotiate with State and Territory Governments to ensure that where funds for local government purposes are supplied to local government authorities on a basis which has regard to the population of Aboriginal people within the boundaries of a local government authority equitable distribution of those funds is made between Aboriginal and non-Aboriginal residents in those local government areas. The Commission further recommends that where it is demonstrated that equitable distribution has not been provided that local government funds should be withheld until it can be assured that equitable distribution will occur. (4:38)

201. The Commission has observed the operations of the Tangentyere Council in Alice Springs and the co-operative relationship established with the Alice Springs Town Council. It is imperative that the Tangentyere Council be provided with stable and adequate funding to enable it to continue and to enhance its provision of services and that governments, local government authorities, Aboriginal organisations and communities consider the adoption of similar models for local governance modified according to the desires of particular communities. (4:39)

202. That where such courses are not already available, suitable training courses to provide necessary administrative, political and management skills should be available for persons elected to regional councils of ATSIC, elected to, appointed to, or engaged in Aboriginal organisations involved in the delivery of services to Aboriginal people and other Aboriginal community organisations. The content of such training courses should be negotiated between appropriate education providers (including Aboriginal education providers) other appropriate Aboriginal organisations and government. Such courses should be funded by government and persons undertaking such courses should be eligible for such financial assistance in the course of studies as would be available under ABSTUDY guidelines. (4:41)

203. That the highest priority be accorded to the facilitation of social, economic and cultural development plans by Aboriginal communities, and on a regional basis, as a basis for future planning of:

a. Economic development goals;

b. Training, employment and enterprise projects;

c. CDEP schemes;

d. The provision of services and infrastructure; and

e. Such other social and cultural needs as are identified. (4:44)

204. The preparation of community development plans should be a participative process involving all members of the community, and should draw upon the knowledge and expertise of a wide range of professionals as well as upon the views and aspirations of Aboriginal people in the local area. It is critical that the processes by which plans are developed are culturally sensitive, unhurried and holistic in approach, and that adequate information on the following matters is made available to participants:

a. The range of Aboriginal needs and aspirations;

b. The opportunities created by government policies or programs;

c. The opportunities and constraints in the local economy;

d. The political opportunities to influence the local arena. (4:44)

Accommodating Difference: Relations Between Aboriginal and Non-Aboriginal People

205. That:

a. Aboriginal media organisations should receive adequate funding, where necessary, in recognition of the importance of their function; and

b. All media organisations should be encouraged to develop codes and policies relating to the presentation of Aboriginal issues, the establishment of monitoring bodies, and the putting into place of training and employment programs for Aboriginal employees in all classifications. (4:59)

206. That the media industry and media unions be requested to consider the establishment of and support of an annual award or awards for excellence in Aboriginal affairs reporting to be judged by a panel of media, union and Aboriginal representatives. (4:59)

207. That institutions providing journalism courses be requested to:

a. Ensure that courses contain a significant component relating to Aboriginal affairs thereby reflecting the social context in which journalists work; and

b. Consider, in consultation with media industry and media unions, the creation of specific units of study dedicated to Aboriginal affairs and the reporting thereof. (4:59)

208. That, in view of the fact that many Aboriginal people throughout Australia express disappointment in the portrayal of Aboriginal people by the media, the media industry and media unions should encourage formal and informal contact with Aboriginal organisations, including Aboriginal media organisations where available. The purpose of such contact should be the creation of a better understanding, on all sides, of issues relating to media treatment of Aboriginal affairs. (4:59)

209. That continuing support should be given to Aboriginal organisations such as the Aboriginal Arts Board in their endeavours to protect the interests of Aboriginal artists and to ensure the continuing expansion of the production and marketing of Aboriginal art and craft work. (4:60)

2 10. That:

a. All employees of government departments and agencies who will live or work in areas with significant Aboriginal population and whose work involves the delivery of services to Aboriginal people be trained to understand and appreciate the traditions and culture of contemporary Aboriginal society;

b. Such training programs should be developed in negotiation with local Aboriginal communities and organisations; and

c. Such training should, wherever possible, be provided by Aboriginal adult education providers with appropriate input from local communities. (4:61)

2 11. That the Human Rights and Equal Opportunity Commission and State Equal Opportunity Commissions should be encouraged to further pursue their programs designed to inform the Aboriginal community regarding anti-discrimination legislation, particularly by way of Aboriginal staff members attending at communities and organisations

to ensure the effective dissemination of information as to the legislation and ways and means of taking advantage of it. (4:69)

212. That the Human Rights and Equal Opportunity Commission and State Equal Opportunity Commissions should be encouraged to consult with appropriate Aboriginal organisations and Aboriginal Legal Services with a view to developing strategies to encourage and enable Aboriginal people to utilise anti-discrimination mechanisms more effectively, particularly in the area of indirect discrimination and representative actions. (4:69)

213. That governments which have not already done so legislate to proscribe racial vilification and to provide a conciliation mechanism for dealing with complaints of racial vilification. The penalties for racial vilification should not involve criminal sanctions. In addition to enabling individuals to lodge complaints, the legislation should empower organisations which can demonstrate a special interest in opposing racial vilification to complain on behalf of any individual or group represented by that organisation. (4:75)

Improving The Criminal Justice System: Aboriginal People and Police

214. The emphasis on the concept of community policing by Police Services in Australia is supported and greater emphasis should be placed on the involvement of Aboriginal communities, organisations and groups in devising appropriate procedures for the sensitive policing of public and private locations where it is known that substantial numbers of Aboriginal people gather or live. (4:85)

215. That Police Services introduce procedures, in consultation with appropriate Aboriginal organisations, whereby negotiation will take place at the local level between Aboriginal communities and police concerning police activities affecting such communities, including:

a. The methods of policing used, with particular reference to police conduct perceived by the Aboriginal community as harassment or discrimination;

b. Any problems perceived by Aboriginal people; and

c. Any problems perceived by police. Such negotiations must be with representative community organisations, not Aboriginal people selected by police, and must be frank and open, and with a willingness to discuss issues notwithstanding the absence of formal complaints. (4:85)

216. That the Northern Territory Department of Correctional Services should, at the conclusion of the review of the Aboriginal Community Justice Project, establish regular meetings with Magistrates to monitor the effective operation of the program and establish a mechanism to ensure that the views of the Aboriginal communities in which the program operates are considered in the context of these meetings. (4:97)

217. That the review of the Aboriginal Community Justice Project should undertake a detailed consideration of the resources required by the Project to operate effectively. Consideration should be given to the creation of specific liaison officer positions employing Aboriginal people to facilitate communications between the court and the community. (4:97)

218. That in reviewing the Aboriginal Community Justice Project the Northern Territory Department of Correctional Services should undertake extensive consultations with all Aboriginal communities which wish to participate in the program. In pursuing this consultation, care should be given to canvassing the entire range of community opinions and the means by which these may be brought, in any relevant case, to the Court's attention. (4:97)

219. The Australian Law Reform Commission's Report on the Recognition of Aboriginal Customary Law was a significant, well- researched study. The Royal Commission received requests from Aboriginal people through the Aboriginal Issues Units regarding the progress in implementation of the recommendations made by the Australian Law Reform Commission and in some cases from communities which had made proposals to the Law Reform Commission. This Commission urges government to report as to the progress in dealing with this Law Reform Report. (4:102)

220. That organisations such as Julalikari Council in Tennant Creek in the Northern Territory and the Community Justice Panels at Echuca and elsewhere in Victoria, and others which are actively involved in providing voluntary support for community policing and community justice programs, be provided with adequate and ongoing funding by governments to ensure the success of such programs. Although regional and local factors may dictate different approaches, these schemes should be examined with a view to introducing similar schemes into Aboriginal communities that are willing to operate them because they have the potential to improve policing and to improve relations between police and Aboriginal people rapidly and to substantially lower crime rates. (4: 108)

221. That Aboriginal people who are involved in community and police initiated schemes such as those referred to in Recommendation 220 should receive adequate remuneration in keeping with their important contribution to the administration of justice. Funding for the payment of these people should be from allocations to expenditure on justice matters, not from the Aboriginal affairs budget (4:109)

222. That the National Police Research Unit make a particular study of efforts currently being made by Police Services to improve relations between police and Aboriginal people with a view to disseminating relevant information to Police Services and Aboriginal communities and organisations, as to appropriate initiatives which might be adopted. (4: 109)

223. That Police Services, Aboriginal Legal Services and relevant Aboriginal organisations at a local level should consider agreeing upon a protocol setting out the procedures and rules which should govern areas of interaction between police and Aboriginal people. Protocols, among other matters, should address questions of:

a. Notification of the Aboriginal Legal Service when Aboriginal people are arrested or detained;

b. The circumstances in which Aboriginal people are taken into protective custody by virtue of intoxication;

c. Concerns of the local community about local policing and other matters; and

d. Processes which might be adopted to enable discrete Aboriginal communities to participate in decisions as to the placement and conduct of police officers on their communities. (4:111)

224. That pending the negotiation of protocols referred to in Recommendation 223, in jurisdictions where legislation, standing orders or instructions do not already so provide, appropriate steps be taken to make it mandatory for Aboriginal Legal Services to be notified upon the arrest or detention of any Aboriginal person other than such arrests or detentions for which it is agreed between the Aboriginal Legal Services and the Police Services that notification is not required. (4:111)

225. That Police Services should consider setting up policy and development units within their structures to deal with developing policies and programs that relate to Aboriginal people. Each such unit should be headed by a competent Aboriginal person, not necessarily a police officer, and should seek to encourage Aboriginal employment within the Unit. Each unit should have full access to senior management of the service and report directly to the Commissioner or his or her delegate. (4: 123)

226. That in all jurisdictions the processes for dealing with complaints against police need to be urgently reviewed. The Commission recommends that legislation should be based on the following principles:

a. That complaints against police should be made to, be investigated by or on behalf of and adjudicated upon by a body or bodies totally independent of Police Services;

b. That the name of a complainant should remain confidential (except where its disclosure is warranted in the interests of justice), and it should be a serious offence for a police officer to take any action against or detrimental to the interest of a person by reason of that person having made a complaint;

c. That where it is decided by the independent authority to hold a formal hearing of a complaint, that heating should be in public;

d. That the complaints body report annually to Parliament;

e. That in the adjudication of complaints made by or on behalf of Aboriginal persons one member of the review or adjudication panel should be an Aboriginal person nominated by an appropriate Aboriginal organisation(s) in the State or Territory in which the complaint arose. The panel should also contain a person nominated by the Police Union or similar body;

f. That there be no financial cost imposed upon a complainant in the making of a complaint or in the hearing of the complaint;

g. That Aboriginal Legal Services be funded to ensure that legal assistance, if required, is available to any Aboriginal complainant

h. That the complaints body take all reasonable steps to employ members of the Aboriginal community on the staff of the body;

i. That the investigation of complaints should be undertaken either by appropriately qualified staff employed by the authority itself, or by police officers who are, for the purpose of and for the duration of the investigation, under the direction of and answerable to, the head of the independent authority;

j. That in the course of investigations into complaints, police officers should be legislatively required to answer questions put to them by the head of the independent authority or any person acting on her/his behalf but subject to further legislative provisions that any statements. made by a police officer in such circumstances may not be used against him/her in other disciplinary proceedings;

k. That legislation ensure that the complaints body has access to such files, documents and information from the Police Services as is required for the purpose of investigating any complaint. (4:131)

227. That the Northern Territory Police Service School-based Program be studied by other Police Services and that the progress and results of the program should be monitored by those services. (4:137)

228. That police training courses be reviewed to ensure that a substantial component of training both for recruits and as in-service training relates to interaction between police and Aboriginal people. It is important that police training provide practical advice as to the conduct which is appropriate for such interactions. Furthermore, such training should incorporate information as to:

a. The social and historical factors which have contributed to

the disadvantaged position in society of many Aboriginal people;

b. The social and historical factors which explain the nature of contemporary Aboriginal and non-Aboriginal relations in society today; and

c. The history of Aboriginal police relations and the role of police as enforcement agents of previous policies of expropriation, protection, and assimilation. (4:150)

229. That all Police Services pursue an active policy of recruiting Aboriginal people into their services, in particular recruiting Aboriginal women. Where possible Aboriginal recruits should be taken in groups. (4:152)

230. That where Aboriginal applicants wish to join a service who appear otherwise to be suitable but whose general standard of education is insufficient, means should be available to allow those persons to undertake abridging course before entering upon the specific police training. (4:152)

231. That different jurisdictions pursue their chosen initiatives for improving relations between police and Aboriginal people in the form of police aides, police liaison officers and in other ways; experimenting and adjusting in the light of

the experience of other services and applying what seems to work best in particular circumstances. (4:152)

232. That the question of Community Police in Queensland and the powers and responsibilities of Community Councils in relation to them be urgently reviewed. (4:161)

233. That the question of Aboriginal police aides in Western Australia be given urgent consideration in light of recent developments, including the Police Aides Review (1987), the development of programs for police aides in other jurisdictions and the investigations into the work of police aides reported in the report of Commissioner Dodson and in this National Report and the recommendations of this report. In the consideration of Aboriginal police aides special attention should be given to the wisdom of police aides being engaged to work in communities other than those from which they were recruited. (4:161)

Breaking the Cycle: Aboriginal Youth

234. That Aboriginal Legal Services throughout Australia be funded to such extent as will enable an adequate level of legal representation and advice to Aboriginal juveniles. (4: 177)

235. That policies of government and the practices of agencies which have involvement with Aboriginal juveniles in the welfare and criminal justice systems should recognise and be committed to ensuring, through legislative enactment, that the primary sources of advice about the interests and welfare of Aboriginal juveniles should be the families and community groups of the juveniles and specialist Aboriginal organisations, including Aboriginal Child Care Agencies. (4: 177)

236. That in the process of negotiating with Aboriginal communities and organisations in the devising of Aboriginal youth programs governments should recognise that local community based and devised strategies have the greatest prospect of success and this recognition should be reflected in funding. (4:177)

237. That at all levels of the juvenile welfare and justice systems there is a need for the employment and training of Aboriginal people as youth workers in roles such as recreation officers, welfare officers, counsellors, probation and parole officers, and street workers in both government and community organisations. Governments, after consultation with appropriate Aboriginal organisations, should increase funding in this area and pursue a more vigorous recruitment and training strategy. (4:177)

238. That once programs and strategies for youth have been devised and agreed, after negotiation between governments and appropriate Aboriginal organisations and communities, governments should provide resources for the employment and training of appropriate persons to ensure that the programs and strategies are successfully implemented at a local level. In making appointment of trainers preference should be given to Aboriginal people with a proven record of being able to relate to, and influence, young people even though such candidates may not have academic qualifications. (4:178)

239. That governments should review relevant legislation and police standing orders so as to ensure that police officers do not exercise their powers of arrest in relation to Aboriginal juveniles rather than proceed by way of formal or informal caution or service of an attendance notice or summons unless there are reasonable grounds for believing that such action is necessary. The test whether arrest is necessary should, in general, be more stringent than that imposed in relation to adults. The general rule should be that if the offence alleged to have been committed is not grave and if the indications are that the juvenile is unlikely to repeat the offence or commit other offences at that time then arrest should not be effected. (4:183)

240. That:

a. Police administrators give police officers greater

encouragement to proceed by way of caution rather than by arrest, summons or attendance notice;

b. That wherever possible the police caution be given in the presence of a parent, adult relative or person having care and responsibility for the juvenile; and

c. That if a police caution is given other than in the presence of any such person having care and responsibility for the juvenile such person be notified in writing of the fact and details of the caution administered. (4:184)

241. The Commission notes that in some jurisdictions (in particular South Australia and Western Australia) Children's Aid Panels or Screening Panels apply. These panels provide an option lying between police cautions, on the one hand, and appearances in children's courts, on the other hand. The Commission is unable to recommend that such panels be established in places where they do not presently exist, nor that panels be abolished in places where they do exist. The Commission, however, draws attention to evidence suggesting that the potential benefits which may flow from the provision of such panels are not fully realised in the case of Aboriginal juveniles. The Commission draws attention to the desirability of studies being done on a wide scale to determine the efficacy of such initiatives. The Commission recommends that for South Australia and Western Australia the following matters should be made clear by legislation, standing orders or administrative directions so as to provide:

a. That the fact of arrest is not to be taken into account in determining whether a child is referred to a Children's Court as opposed to being referred to an alternative body such as a Children's Aid Panel;

b. That the decision to proceed by way of summons or attendance notice rather than by cautioning a juvenile should not be influenced by the existence of such panels;

c. That there should be adequate representation of Aboriginal people on the list of panel members;

d. That the panels should be so constituted that there be adequate representation of Aboriginal members of the panel on any occasion in which an Aboriginal juvenile's case is being considered;

e. That in no case should there be consideration of the case of an Aboriginal juvenile unless one member, at least, of the panel is an Aboriginal person; and

f. That an Aboriginal juvenile should not be denied consideration by a Children's Aid Panel by virtue of the juvenile's inability, on financial grounds, to make restitution for property lost, stolen or damaged. (4:184)

242. That, except in exceptional circumstances, juveniles should not be detained in police lockups. In order to avoid such an outcome in places where alternative juvenile detention facilities do not exist, the following administrative and, where necessary, legislative steps should he taken:

a. Police officers in charge of lockups should be instructed that consideration of bail in such cases be expedited as a matter of urgency;

b. If the juvenile is not released as a result of a grant of bail by a police officer or Justice of the Peace then the question of bail should be immediately referred (telephone referral being permitted) to a magistrate, clerk of Court or such other person as shall be given appropriate jurisdiction so that bail can be reconsidered;

c. Government should approve informal juvenile holding homes, particularly the homes of Aboriginal people, in which juveniles can lawfully he placed by police officers if bail is in fact not allowed; and

d. If in the event a juvenile is detained overnight in a police lock-up every effort should be made to arrange for a parent or visitor to attend and remain with the juvenile whether pursuant to the terms of a formal cell visitor scheme or otherwise.

Such steps should be in addition to notice that the officer in charge of the station should give to parents, the Aboriginal Legal Service or its representative. (4:202)

243. That where an Aboriginal juvenile is taken to a police station for interrogation or as a result of arrest, the officer

in charge of the police station at which the juvenile is detained should be required to immediately advise the relevant Aboriginal Legal Service and the parent or person responsible for the care and supervision of the juvenile of the fact of the child being detained at the police station (without prejudice to any obligation to advise any other person). (4:203)

244. That no Aboriginal juvenile should be interrogated by a police officer except in the presence of a parent, other person responsible for the care and supervision of the child or, in the absence of a parent or such other person, an officer of an agency or organisation charged with responsibility for the care and welfare of Aboriginal juveniles. (4:203)

245. That legislation, regulations and/or police standing orders, as may be appropriate, be amended so as to require compliance with the above recommendations. (4:205)

Towards Better Health

246. That the State, Territory and Commonwealth governments act to put an end to the situation where insufficient accurate and comprehensive information on inputs to and activities of Aboriginal health programs is available. Such information is needed if Aboriginal organisations, governments and the community are to be in a position to understand and monitor what is taking place in this area, to estimate the benefits derived therefrom and to develop appropriate policies and programs to address existing and newly emerging needs. (4:227)

247. That more and/or better quality training be provided in a range of areas taking note of the following:

a. Many non-Aboriginal health professionals at all levels are poorly informed about Aboriginal people, their cultural differences, their specific socio-economic circumstances and their history within Australian society. The managers of health care services should be aware of this and institute specific training programs to remedy this deficiency, including by pre-service and in-service training of doctors, nurses and other health professionals, especially in areas where Aboriginal people are concentrated;

b. The rotation of staff through country hospitals means that many professional staff are ill-prepared to provide appropriate health care services to Aboriginal people. Staff on such rotations should receive special training for their rural placements, and resources to make this possible should routinely be provided as part of the operating budgets of the relevant facilities;

c. The primary health care approach to health development is highly appropriate in the Aboriginal health field, but health professionals are not well trained in this area. The pre-service and in-service training of doctors, nurses and other health professionals should provide such staff with a firm understanding of and commitment to primary health care. This should be a special feature of the training of staff interested in working in localities where Aboriginal people are concentrated;

d. Health care staff working in areas where Aboriginal people are concentrated should receive specific orientation training covering both the socio-cultural aspects of the Aboriginal communities they are likely to be serving and the types of medical and health conditions likely to be encountered in a particular locality. Such orientation programs must be complemented by appropriate on-the-job training;

e. Effective communication between non-Aboriginal health professionals and patients in mainstream services is essential for the successful management of the patients' health problems. Non-Aboriginal staff should receive special training to sensitise them to the communication barriers most likely to interfere with the optimal health professional/patient relationship; and

f. Aboriginal people often present to mainstream health care facilities with unusual health conditions and unusual presentations of common conditions, as well as urgent, life-threatening conditions. The training of health professionals must enable them to cope successfully with these conditions. (4:257)

248. That health departments, academic institutions and other relevant training authorities monitor the proposed

Monash University/Victorian Aboriginal Health Service's Aboriginal Primary Health Care Unit, with a view to learning from its experiences and that those interested in this field study the philosophies and methods of operation of the Aboriginal community-controlled health services. (4:258)

249. That the non-Aboriginal health professionals who have to serve Aboriginal people who have limited skills in communicating with them in the English language should have access to skilled interpreters. (4:259)

250. That effective mechanisms be established for communicating vital information about patients, between the mainstream and Aboriginal community-based health care services. This must be done in an ethical manner, preserving the confidentiality of personal information and with the informed consent of the patients involved. Such communication should be a two-way process. (4:259)

251. That access to health care services and facilities, including specialised diagnostic facilities, in areas of Aboriginal population should be brought up to community standards. The greater needs, for the time being, of Aboriginal people should be fully recognised by the responsible authorities in their consideration of the allocation of staff and equipment. (4:259)

252. That hospitals that are regularly attended by Aboriginal people should review existing procedures in casualty, in consultation with Aboriginal Health and Medical Services, to reduce the likelihood of Aboriginal patients receiving ineffective diagnosis and treatment. The usefulness of standard protocols in such situations should be explored in the reviews. (4:259)

253. That the physical design of and methods of operating health care facilities be attuned to the needs of the intended patients. Particularly where high concentrations of Aboriginal people are found, their special needs in these regards should be taken into consideration. The involvement of Aboriginal people in the processes of designing such facilities is highly desirable. (4:259)

254. That health departments and other mainstream health authorities accept as policy, and implement in practice, the principle that Aboriginal people should be involved in meaningful ways in decision-making roles regarding the assessment of needs and the delivery of health services to the Aboriginal community. One application of this principle is that efforts should be made to see that Aboriginal people are properly represented on the Boards of hospitals serving areas where Aboriginal patients will be a significant proportion of hospital clients. (4:260)

255. That the holding of negative stereotypes of both Aboriginal people and people with drinking problems be addressed through effective staff selection and supervision, along with pre-service and in-service education, to reduce the ignorance, and through clear instructions by employing authorities that such stereotyping of Aboriginal people and those with drinking problems will not be tolerated in the health care setting. (4:260)

256. That more Aboriginal staff be employed through affirmative action programs as health care workers (and, indeed, in other capacities such as support staff) in those mainstream health care facilities which serve Aboriginal clients and patients and that their involvement must be well thought out, be at appropriate levels, and be structured so that they contribute effectively with the minimum amount of role conflict. (4:260)

257. That special initiatives now in place in a number of tertiary training institutions. such as medical schools, to facilitate the entry into and successful completion of courses of study and training by Aboriginal students be expanded for use in all relevant areas of health services training. (4:260)

258. That in areas where Aboriginal people are concentrated and the state or territory governments provide or intend to provide a particular service or services to Aboriginal people, the governments invite community-controlled Aboriginal Health Services to consider negotiating contracts for the provision of the services to Aboriginal people and also, where appropriate, to non-Aboriginal people. (4:261)

259. That Aboriginal community-controlled health services be resourced to meet a broad range of functions, beyond simply the provision of medical and nursing care, including the promotion of good health, the prevention of disease, environmental improvement and the improvement of social welfare services for Aboriginal people. (4:261)

260. That:

a. Funding bodies should facilitate program evaluation of

Aboriginal community-controlled health services, not with the aim of making decisions on levels of funding, but with the aim of assisting the services to operate most effectively and efficiently;

b. Representatives of the Aboriginal community should be invited to participate in the control of the evaluation research activity; and

c. Performance indicators should be drawn up co-operatively between the managers of the services and the funding bodies. (4:261)

261. That the use of Aboriginal hospital liaison officers be expanded in hospitals which serve Aboriginal patients and that they be seen and used as respected members of the therapeutic team. (4:262)

262. That the States recognise the contributions of Aboriginal Health Workers and in so doing review the Northern Territory's experience of the establishment of appropriate career structures and the registration of them. (4:262)

263. That where there is a high level of non-compliance by a range of Aboriginal patients with advice tendered to them by health professionals, the health professionals should examine their styles of operation with a view to checking whether those styles can be improved. (4:262)

264, That:

a. There be a substantial expansion in Aboriginal mental health services within the framework of the development, on the basis of community consultation, of a new national mental health policy;

b. There be close scrutiny by those developing the national policy of the number of models that exist for such expansion; and

c. Aboriginal people be fully involved in the policy development and implementation process. (4:262)

265. That as an immediate step towards overcoming the poorly developed level of mental health services for Aboriginal people priority should be given to complementing the training of psychiatrists and other non-Aboriginal mental health professionals with the development of a cadre of Aboriginal health workers with appropriate mental health training, as well as their general health worker training. The integration of the two groups, both in their training and in mental health service delivery, should receive close attention. In addition, resources should be allocated for the training and employment of Aboriginal mental health workers by Aboriginal health services. (4:262)

266. That the linking or integrating of mental health services for Aboriginal people with local health and other support services be a feature of current and expanded Aboriginal mental health services. (4:263)

267. That aerial medical services and the appropriate authorities review the effectiveness of practices relating to medical diagnosis at a distance, for example by radio or telephone, and consider the implementation of standard diagnostic protocols, where they are not currently being used. (4:263)

268. That the National Health and Medical Research Council actively stimulate research into health concerns identified as priorities by appropriate Aboriginal health advisory bodies (such as the proposed Council of Aboriginal Health), particularly research that involves Aboriginal people at both the development and implementation stages. (4:263)

269. That compliance with the National Health and Medical Research Council's Advisory Notes on Aboriginal health research ethics be a condition of Aboriginal health research funding from all sources. (4:263)

270. That:

a. Aboriginal people be involved in each stage of the development of Aboriginal health statistics; and

b. Appropriate Aboriginal health advisory bodies (such as the proposed Council of Aboriginal Health) consider developing an expanded role in this area, perhaps in an advisory capacity to the Australian Institute of Health, and that the aim of this involvement should be to ensure that priority is given to the collection, analysis, dissemination and use of those Aboriginal health statistics most relevant to Aboriginal health development. (4:263)

271. That the implementation of the National Aboriginal Health Strategy, as endorsed by the Joint Ministerial Forum, be regarded as a crucial element in addressing the underlying issues the Commission was directed to take into account, and that funds be urgently made available to allow the Strategy to be implemented. (4:268)

Coping With Alcohol and other Drugs: Strategies for Change

272. That governments review the level of resources allocated to the function of ensuring that the holden of liquor licences meet their legal obligations (in particular laws relating to serving intoxicated persons), and allocate additional resources if needed. (4:281)

273. That consideration be given to legislating for the appointment of community workers who would have the power to inspect licensed premises to ensure that licensees comply with the applicable legislation and licence conditions. (4:282)

274. That governments consider whether there is too great an availability of liquor, including too many licensed premises, and the desirability of reducing the number of licensed premises in some localities, such as Alice Springs, where concentrations of Aboriginal people are found. (4:282)

275. That the Northern Territory Government review its liquor legislation in the light of the size of the Aboriginal population of the Territory and its needs, and include in such a review the desirability of appointing at least one Aboriginal person to be a member of the Northern Territory Liquor Commission. (4:282)

276. That consideration be given to the desirability of legislating to provide for a local option as to liquor sales trading hours, particularly in localities where there are high concentrations of Aboriginal people. (4:282)

277. That legal provision be available in all jurisdictions to enable individuals, organisations and communities to object to the granting, renewal or continuance of liquor licences, and that Aboriginal organisations be provided with the resources to facilitate this. (4:282)

278. That legislation and resources be available in all jurisdictions to enable communities which wish to do so to control effectively the availability of alcoholic beverages. The controls could cover such matters as whether liquor will be available at all, and if so, the types of beverages, quantities sold to individuals and hours of trading. (4:283)

279. That the law be reviewed to strengthen provisions to eliminate the practices of 'sly grogging'. (4:283)

280. That ATSIC and other organisations be encouraged to provide resources to help Aboriginal communities identify and resolve difficulties in relation to the impact of beer canteens the communities. (4:283)

281. That Aboriginal communities that seek assistance in regulating the operation of beer canteens in their communities be provided with funds so as to enable effective regulation, especially where a range of social, entertainment and other community amenities are incorporated into the project. (4:283)

282. That media campaigns and other health promotion strategies targeted at Aboriginal people at the local and regional levels include Aboriginal involvement at all stages of development to ensure that the messages are appropriate. (4:284)

283. That the possibility of establishing early intervention programs in Aboriginal health services and in hospitals and

community health centres with a high proportion of Aboriginal patients be investigated. This would include the training needs of staff in intervention techniques. (4:290)

284. That Aboriginal organisations consider adopting alcohol-free workplace policies and be encouraged and given supper to develop employee assistance programs. (4:290)

285. That Aboriginal organisations and Councils (including ATSIC) be encouraged to give consideration to the further implementation of programs to employ multipurpose Aboriginal drug and alcohol community workers, and that appropriate assistance is sought in the training of Aboriginal people to fill such roles. (4:290)

286. That the Commonwealth Government. in conjunction with the States and Territories Governments and non-government agencies, act to co-ordinate more effectively the policies, resources and programs in the area of petrol sniffing. (4:293)

287. That the Commonwealth, States and Territories give higher priority to the provision of alcohol and other drug prevention, intervention and treatment programs for Aboriginal people which are functionally accessible to potential clients and are staffed by suitably trained workers, particularly Aboriginal workers. These programs should operate in a manner such that they result in greater empowerment of Aboriginal people, not higher levels of dependence on external funding bodies. (4:297)

288. That all workers, both Aboriginal and non-Aboriginal, involved in providing alcohol and other drug programs to Aboriginal people, receive adequate training. Priority training needs include:

a. Relevant cross-cultural awareness and communication training for non-Aboriginal workers such as health and welfare staff who provide services to Aboriginal people;

b. Skills training for Aboriginal alcohol and other drug treatment workers, particularly those who have recovered from alcohol problems themselves but have no formal training in the area. (4:297)

Educating for the Future

289. That

a. governments, State Aboriginal Education Consultative Groups and local AECGs should pay great attention to the fact that the scope of the National Aboriginal and Torres Strait Islander Education Policy extends to pre- schooling programs and that it should be recognised that to a considerable extent the success of the whole NAEP will turn on the success of the pre-schooling initiatives;

b. That pre-schooling programs should have as a major aim the involvement not only of the children, but of the parents or those responsible for the care of the children. (4:303)

290. That curricula of schools at all levels should reflect the fact that Australia has an Aboriginal history and Aboriginal viewpoints on social, cultural and historical matters. It is essential that Aboriginal viewpoints, interests, perceptions and expectations are reflected in curricula, teaching and administration of schools. (4:308)

291. That:

a. In designing and implementing programs at a local level which incorporate Aboriginal viewpoints on social, cultural and historical matters local schools should, wherever possible, seek the support and participation of the local Aboriginal community in addition to any other appropriate Aboriginal organisations or groups; and

b. In engaging local Aboriginal people to assist in the preparation and delivery of such courses at a local level, school principals and the relevant education departments accept that in recognition of the expertise which local Aboriginal people would bring to such a program, payment for the services of such Aboriginal people would be appropriate.

(4:309)

292. That the AECGs in each State and Territory take into account in discussing with governments the needs of the Aboriginal communities in their area, and that local Aboriginal Education Consultative Groups take into account when consulting with school principals and providers at the local level, the fact that many Aboriginal communities and organisations have identified the need for the education curriculum to include a course of study to inform students on social issues such as the legal system-including police and Courts-civil liberties, drug and alcohol use and sex education. (4:309)

293. That the introduction of the Aboriginal Student Support and Parent Awareness Program be commended as being an appropriate recognition of the need for the participation of Aboriginal people at a local level in the delivery of school programs. The Commission notes, however, that the success of the program will be dependent on the extent to which the Aboriginal community is guaranteed adequate consultation, negotiation and support in devising and implementing this program. (4:314)

294. That governments and Aboriginal Education Consultative Groups take note of the methodology employed in such programs as that at Batchelor College, Northern Territory in the training of Aboriginal, teachers and others for work in remote communities. **(**4:318)

295. That:

a. All teacher training courses include courses which will enable student teachers to understand that Australia has an Aboriginal history and Aboriginal viewpoints on social, cultural and historical matters, and to teach the curriculum which reflects those matters;

b. In-service training courses for teachers he provided so that teachers may improve their skill, knowledge and understanding to teach curricula which incorporate Aboriginal viewpoints on social, cultural and historical

c. Aboriginal people should he involved in the training courses both at student teacher and in-service level. (4:322)

296. That:

a. AECGs consider such processes which might allow communities and teachers to negotiate and agree upon the role of teachers at local community level; and

b. Governments, AECGs and, where appropriate, unions explore processes which will enable teachers, pupils and parents to negotiate guidelines for the teaching of Aboriginal students and the employment and conditions of teachers on local communities. (4:322)

297. That:

a. The vital role which Aboriginal Education Workers or persons performing a similar role but with another title-- can play in ensuring effective Aboriginal participation in

b. Aboriginal Education Workers be given the recognition and remuneration which their role merits and that it be recognised that they suffer from conflicting expectations of community and Department as to their role; and

c. It be understood that there is a need for them to have accountability to the Aboriginal community as well as to their employer. (4:327)

298. That:

a. Governments support Aboriginal community controlled adult education institutions and other institutions which provide a program of courses which have the support of

b. Governments accept that courses delivered by such institutions should be regarded as courses entitling students to

such payments or allowances as would be their entitlement in the event that they were participating for the same or equivalent time in a TAFE course; and

c. It be recognised that owing to the substantial historical educational disadvantage which Aboriginal people have experienced, a course for Aboriginal students may necessarily be longer than might be the case if the course were provided to non-Aboriginal students. (4:345)

299. That:

a. At every stage of the application of the National Aboriginal Education Policy the utmost respect be paid to the first long-term goal expressed in the policy, that is: To establish effective arrangements for the participation of Aboriginal parents and community members in decisions regarding the planning, delivery, and evaluation of pre-school, primary, and secondary education services for their children.

b. It be recognised that the aims of the Policy are not only to achieve equity in education for Aboriginal people but also to achieve a strengthening of Aboriginal identity, decision making and self-determination; and

c. It is unlikely that either of these aims can be achieved without the achieving of the other. (4:351)

Increasing Economic Opportunity

300. That support be given to the aims of AEDP to:

a. Increase opportunities for Aboriginal people in the mainstream labour market to achieve equity with other Australians in the rates and levels of permanent employment; and

b. Generate employment through greatly enhanced assistance for community development and the expansion of employment reaches an acceptable level, governments should be prepared to set targets for recruitment into the public sector at somewhat higher target figures than would reflect the proportionate representation of Aboriginal people in the population. (4:385)

307. That Commonwealth, State and Territory Governments adopt a fair employment practice in relation to the letting of government contracts, which gives preference to those tenderers who can demonstrate that they have adopted and implemented a policy of employing Aboriginal persons in their workforce. (4:388)

308. That Commonwealth and State Governments give consideration to establishing a body made up of representation from government (DEET and ATSIC, [67] as well as State Governments) and Australian employer and employee peak bodies to discuss, with a view to setting in motion, a process of implementing the aims of the AEDP in the private sector. (4:388)

309. That increased funding be allocated to the establishment of local employment promotion committees comprised of representatives of Aboriginal groups, local employers, government departments and unions to:

a. Develop and implement suitable promotional marketing campaigns aimed at the total labour market;

b. Lobby for local initiatives in improving employment options and broadening local understanding of the needs and aspirations of Aboriginal people in the region; and

c. Increase the understanding in the Aboriginal community of the possible local employment options, the nature of the work involved and the skills required.

In funding the establishment of the committees, priority should be given to locations where labour market opportunities exist and where the greatest disparity between Aboriginal and non-Aboriginal employment rates are identified. (4:388)

310. That the Commonwealth, and in particular the Department of Employment, Education and Training, analyse its

current programs with a view to ensuring that they fully address the employment, education and training needs of potential and existing Aboriginal offenders. Where necessary, existing program guidelines should be modified and/or new program elements developed to increase access by such clients. In particular, DEET should examine means of assisting Aboriginal communities to become more involved in preventative, diversionary and rehabilitative programs to assist Aboriginal offenders, particularly where they would provide an alternative to incarceration. (4:390)

311. That ATSIC ensure that in the administration of its Enterprise Program a clear distinction is drawn between those projects that are supported according to criteria of commercial viability and those that are supported according to social development or social service satisfaction criteria. (4:399)

312. That the intention of Sections 17 and 18 of the *Aboriginal and Torres Strait Islander Commission Act 1989* *be* clarified, by amendment to the legislation if necessary, in order to facilitate the funding of enterprises which are not necessarily commercially viable on the basis of social development criteria (4:399)

313. That the ongoing review of the Enterprise Program by the Commonwealth Government should seek to develop the Program in such a way that:

a. Adequate program flexibility is provided to allow for the diversity of aspirations and needs of different Aboriginal communities; and

b. Funding difficulties caused by cyclic government budgeting and delays between application and receipt of moneys are minimised. (4:402)

314. That mechanisms for the notification and determination of Aboriginal interests in major mining and tourism development proposals incorporate:

a. Provision of formal written notification concerning the development to appropriate Aboriginal organisations within the area affected by the development proposal; and

b. A process of consultation and negotiation between representatives of government, the developer and representatives of the Aboriginal groups with an interest in the area affected by the proposal, in order to facilitate participation by Aboriginal groups or communities in the equity, management and employment concerned with the projects. (4:402)

315. That the recommendations submitted to the Conservation and Land Management meeting (held at Millstream on 6-8 August 1990) by representatives of Aboriginal communities and organisations be implemented in Western Australia upon terms to be negotiated between Aboriginal people and appropriate Aboriginal organisations and communities on the one hand and National Park authorities on the other so as to protect and preserve the rights and interests of Aboriginal people with cultural, historical and traditional association with National Parks. The recommendations proposed at the Millstream meeting were:

a. The encouragement of joint management between identified and acknowledge representatives of Aboriginal people and the relevant State agency;

b. The involvement of Aboriginal people in the development of management plans for National Parks;

c. The excision of areas of land within National Parks for use by Aboriginal people as living areas;

d. The granting of access by Aboriginal people to National Parks and Nature Reserves for subsistence hunting, fishing and the collection of material for cultural purposes (and the amendment of legislation to enable this, where necessary);

e. Facilitating the control of cultural heritage information by Aboriginal people;

f. Affirmative action policies which give preference to Aboriginal people in employment as administrators, rangers, and in other positions within National Parks;

g. The negotiation of lease-back arrangements which enable title to land on which National Parks are situated to be transferred to Aboriginal owners, subject to the lease of the area to the relevant State or Commonwealth authority on payment of rent to the Aboriginal owners;

h. The charging of admission fees for entrance to National Parks by tourists;

i. The reservation of areas of land within National Parks to which Aboriginal people have access for ceremonial purposes; and

j. The establishment of mechanisms which enable relevant Aboriginal custodians to be in control of protection of and access to sites of significance to them. (4:416)

316. That the relevant Governments, in consultation with relevant Aboriginal organisations give consideration to funding the establishment of a small unit, comprising Aboriginal people drawn from northern Western Australia, the Northern Territory and northern Queensland, which would be based in the northern part of the country. The function of the unit would be to study, in consultation with the residents of remote communities in those areas, the means of achieving greater self-sufficiency in those communities. The Unit would have the task of keeping remote communities advised of successful initiatives achieved in other communities and assisting remote communities in the preparation of their community plans, so as to assist them in developing economic independence, or at least a greater degree of self sufficiency. (4:423)

317. That further extension of the CDEP Scheme (or some similar program) to rural towns with large Aboriginal populations and limited mainstream employment opportunities for Aboriginal people be considered. **(**4:439)

318. That in view of the considerable demands placed on staff of ATSIC by the expansion of the CDEP Scheme, consideration be given to developing a mechanism for devolving to appropriate consenting Aboriginal organisations, in particular resource agencies, responsibility for some aspects of the administrative support of CDEP, including in particular:

a. Advising. communities on the types of work which the community may wish to consider undertaking;

b. Advising communities on the potential for incorporating other types of funding for employment and enterprise development into a CDEP project;

c. Dissemination of information (collected by ATSIC) on successful schemes;

d. Financial and administrative support for management of a scheme; and

e. Assisting in the provision or co-ordination of training for participants and managers of CDEP.

Those Aboriginal organisations should be adequately resourced to carry out the tasks which are devolved to them. (4:439)

319. That in the coming review of the CDEP Scheme consideration be given to:

Funding

a. Improved mechanisms for the combining of funds from different programs (such as the Aboriginal Enterprise Incentive Scheme and the Enterprise Program) to supplement the capital and recurrent funding of CDEP in order to facilitate greater Aboriginal community control over infrastructural components of projects;

b. The introduction of a mechanism which ensures that CDEP projects are not used as a substitute for the provision of an adequate level of municipal and other social services, unless funds equivalent to those which would have been provided in respect of municipal and social services are provided to supplement the operation of

c. The recognition by the Department of Finance of CDEP as a discrete program with considerable offset savings to the

government (in respect of administrative savings from non-payment of Unemployment Benefits), and the automatic provision of the 20% on-cost component--not from the ATSIC existing global allocation;

Equity Considerations

d. The improved policing of payments under CDEP to ensure that all participants in CDEP receive an income equivalent to Unemployment Benefit regardless of work actually performed, subject to the participants' performance of their obligations under the scheme;

e. Addressing issues of access to income, and meaningful work activities for women participants in CDEP;

Administrative and Financial Management Support

f. The enhanced involvement of Aboriginal controlled organisations and resource agencies in the provision of administrative expertise and advice in the operation of

g. Improvements in the financial control systems for CDEP and provision for the training of CDEP managers in the maintenance of financial controls;

h. Initiatives for the development of ATSIC staff training in negotiation and consultation skills, and in cultural sensitivity, in order to improve the effectiveness and minimise the burden of consultation and support provided by ATSIC to communities on CDEP;

Training and Employment Potential

i. An improved level of training and planning support for projects, and for the development of medium and long term plans for CDEP projects which reflect the aspirations of participants for access to mainstream employment opportunities, enterprise development or culturally appropriate work;

j. Increased co-ordination between ATSIC and DEET in respect of the training requirements of both new and ongoing CDEP projects, and in relation to the enterprise development potential of CDEP projects; and

k. The dissemination of information to Aboriginal communities who are on CDEP or who are planning to apply to receive CDEP funds about successful work programs undertaken by other communities under CDEP. (4:440)

320. That further research be undertaken in relation to:

a. The particular economic circumstances of Aboriginal people in discrete geographical areas, in order to:

i. determine the contribution which Aboriginal people make to the local or regional economy;

ii. identify the sources of and amounts of funding which might be available to them; and

iii. facilitate realistic economic planning by Aboriginal people which is consistent both with the prevailing economic circumstances and with their aspirations and lifestyle; and

b. The impact of the overall taxation system on Aboriginal people and on Aboriginal organisations, and the extent to which Aboriginal people benefit from the Australian taxation system.

Where research is commissioned or funded, a condition of the research being undertaken should be the active involvement of Aboriginal people in the area which is the subject of the research, the communication of research findings across a wide cross-section of the local Aboriginal community in an easily understood form, and the formulation of proposals for further action by the Aboriginal community and local Aboriginal organisations. (4:446)

Improving the Living Environment: Housing and Infrastructure

321. That any future accommodation needs survey include not only an emphasis on the physical housing needs but also incorporate assessments that relate to management, administrative and housing support needs; in respect of remote communities such surveys should also establish the need for hostel accommodation in service towns where people may be required to spend time utilising services not available in remote areas. (4:459)

322. That quantification of required housing stock take into account community aspirations as to the number of people who are likely to share a house, its location and potential impact on present and future infrastructure requirements. (4:459)

323. That:

a. Increased funding be made available to Aboriginal community groups for the implementation of homemaker schemes. Groups that may be appropriate to receive such funding should include women's groups, housing organisations and community councils; and

b. Adult education providers, and particularly Aboriginal community controlled adult education providers, be encouraged and supported to provide:

i. courses in homemaking and domestic budgeting; and

ii. courses for training Aboriginal persons as community advisers and teachers in homemaking. (4:464)

324. That the model which Tangentyere Council offers for integrating the various service delivery and administrative needs associated with Aboriginal housing be studied in other regions. (4:473)

325. That the question of providing assistance to Aboriginal housing organisations in relation to administration costs and the cost of repair of housing stock receive close attention. In this respect the CDEP scheme appears to offer an excellent opportunity for communities to solve some of the problems of the cost of housing repairs whilst at the same time providing work of a type that opens the way for training in important areas of skill development. (4:475)

326. That in recognition of both the depressed economic conditions in many remote communities and the importance of Aboriginal participation in the control of new construction:

a. Where governments require tenders to be called for public works, they introduce procedures to enable Aboriginal communities to participate in the determination of the award of the construction contract;

b. Such contracts should provide for the employment of labour from the community as far as is possible;

c. The training of local persons in preparation for employment pursuant to such contracts should be a high priority for training providers; and

d. Contracts should be let where possible to local tenderers, provided that their tender price is not unreasonably high.

Pending these arrangements being put in place, and with consequent improvements in income for housing organisations, governments and authorities should take into account the need of housing organisations for assistance with their recurrent costs, in addition to funding for new dwellings. (4:476)

327. That:

a. Relevant Aboriginal training institutions and Aboriginal housing organisations, in consultation with DEET, devise and implement a strategy specifically directed to the training of Aboriginal people to build and maintain

b. This training program should be adequately co-ordinated with employment strategies established under the AEDP and CDEP. (4:479)

Conforming with International Obligations

328. That as Commonwealth, State and Territory Governments have adopted Standard Guidelines for Corrections in Australia which express commitment to principles for the maintenance of humane prison conditions embodying respect for the human rights of prisoners, sufficient resources should be made available to translate those principles into practice. (5: 19)

329. That the National Standards Body comprising Ministers responsible for corrections throughout Australia give consideration to the drafting and introduction of legislation embodying the Standard Guidelines and in drafting such legislation give consideration to prisoners' rights contained in Division 4 of the Victorian *Corrections Act 1986*. (5:19)

330. That the National Standards Body establish and maintain direct consultation with relevant Aboriginal organisations including Aboriginal Legal and Health Services. (5:22)

331. That the National Standards Body consider the formulation and adoption of guidelines specifically directed to the needs of Aboriginal prisoners. In that process the findings and recommendations of this Commission relating to custodial conditions and the treatment of Aboriginal persons in custody should be taken into account. (5:22)

332. That the Commonwealth State and Territory Ministers for Police should formulate and adopt standard guidelines for police custodial facilities throughout Australia. (5:24)

333. While noting that in no case did the Commission find a breach of the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, it is recommended that the Commonwealth Government should make a declaration under Article 22 of the Convention and take all steps necessary to become. a party to the Optional Protocol to the International Convention on Civil and Political Rights in order to provide a right of individual petition to the Committee Against Torture and the Human Rights Committee, respectively. (5:26)

Addressing Land Needs

334. That in all jurisdictions legislation should be introduced, where this has not already occurred, to provide a comprehensive means to address land needs of Aboriginal people. Such legislation should encompass a process for restoring unalienated Crown land to those Aboriginal people who claim such land on the basis of cultural, historical and/or traditional association. (5:53)

335. That in recognising that improvement in the living standards of many Aboriginal communities (especially for those people living in inadequate housing and environmental circumstances on the fringes of towns and on other discrete areas of Aboriginal occupation of land) cannot be ensured without the security of land title, governments provide, by legislation and/or administrative direction, an accelerated process for the granting of land title based on need. (5:53)

336. That unalienated crown land granted on the basis of cultural, historical and/or traditional association of Aboriginal people should be granted under inalienable freehold title and should carry with it the right of the Aboriginal owners to, *inter alia:*

a. Determine who may enter the land and the terms of such entry; and

b. Control the impact of development on the land in so far as such development may threaten the cultural and/or social values of the Aboriginal owners and their communities. (5:53)

337. That governments recognise that where appropriate unalienated crown land is unavailable to be claimed on grounds of cultural, historical or traditional association with the land or where, due to the processes of the history of colonisation, Aboriginal people are no longer able to, nor seek to, make claims to particular areas of unalienated crown land on the basis of cultural, historical or traditional association there remain land needs of Aboriginal people which should be met by governments. These needs should be accommodated by a process which:

a. Enables Aboriginal communities or groups to obtain secure title to unalienated crown land or to purchase land for social, recreational and community purposes (including the obtaining of additional land in circumstances in which an Aboriginal community is on Aboriginal land but where the area of that land is established as being too small to accommodate the community);

b. Enables Aboriginal communities or groups to obtain secure title to land so as to improve the environmental circumstances in which they live;

c. Provides adequate funding in order that land may be purchased on the open market in pursuance of the needs identified in paragraphs (a) and (b); and

d. Where pastoral land is held on lease from the Crown, permits Aboriginal communities traditionally or historically associated with the land to have priority when leases come up for renewal. (5:54)

338. That as an interim step all land held under leasehold, being former Aboriginal reserve or mission land and being now held for or on behalf of Aboriginal people, be forthwith transferred under inalienable freehold title to the present leaseholder(s) pending further consideration by Aboriginal people as to the appropriate Aboriginal body which should thereafter hold the title to such land. (5:54)

The Process of Reconciliation

339. That all political leaders and their parties recognise that reconciliation between the Aboriginal and non-Aboriginal communities in Australia must be achieved if community division, discord and injustice to Aboriginal people are to be avoided. To this end the Commission recommends that political leaders use their best endeavours to ensure bi-partisan public support for the process of reconciliation and that the urgency and necessity of the process be acknowledged. (5:65)

30 March Report

On 30 March 1991 the preceding recommendations and the following brief report were submitted to meet the requirements of the Letters Patent (as they then existed) issued by Their Excellencies the Governors of New South Wales, Victoria, Queensland, South Australia and Tasmania, the Commission issued by His Excellency the Governor of Western Australia and the Letters Patent issued under the *Commission of Inquiry (Deaths in Custody) Act 1987* of the Northern Territory.

The Commission has had, broadly speaking, two main tasks to inquire into the immediate causes of death of those Aboriginal and Torres Strait Islander People who died in custody between 1 January 1980 and 31 May 1989 and to report and make recommendations regarding the underlying issues associated with the deaths. At an early stage in the Commission' s inquiries, research strongly indicated that the disproportionately high number of Aboriginal people who die in custody appears to be directly related to the disproportionately high number of Aboriginal people who are arrested and imprisoned the rate of death of Aboriginal and non-Aboriginal people amongst incarcerated people being broadly the same. Hence the Commission's examination of underlying issues focussed on what it is about the interaction of Aboriginal people with the non-Aboriginal society which so strongly predisposes Aboriginal people to arrest and imprisonment.

The Commission has carried out inquiries into over 120 deaths; 99 of those deaths were determined to lie within the Commission's jurisdiction and the circumstances relating to those deaths have been the subject of separate reports.

In fulfilling my commission I have drawn heavily on the work of my predecessor, the Hon. J.H. Muirhead, AC, QC, and the work of the other Commissioners - Commissioner P.L. Dodson, Commissioner the Hon. D.J. O'Dea, LLB, Commissioner the Hon. J.H. Wootten, AC, QC and Commissioner L.F. Wyvill, QC. Commissioner Dodson was commissioned to inquire into the underlying issues associated with the deaths in Western Australia and the other

Commissioners were required to inquire into the deaths which occurred in particular Stales and into underlying issues associated with those deaths and to submit a report of their overall findings. The Regional Reports of the overall findings of the other Commissioners are being presented at the same time as this report.

The following recommendations relate to the broad underlying issues relating to arrest and imprisonment of Aboriginal people as well as more immediate measures which should be taken to prevent Aboriginal deaths in custody.

In the course of these inquiries all five Commissioners have come to share common views regarding the changes required to remedy the problems faced by Aboriginal People. The overall thrust of the recommendations is supported by all Commissioners and most of the specific recommendations have unanimous support. There are some recommendations, however, which deal with areas or matters which particular Commissioners were unable to inquire into sufficiently to reach a final view. Commissioner Dodson who was responsible for inquiring into underlying issues only is in close agreement with the report and recommendations.
