
THE FAMILY RESPONSIBILITIES COMMISSION:

BUILDING INDIGENOUS LEADERSHIP AND LAYING THE FOUNDATION FOR SOCIAL CHANGE IN AURUKUN

by Stuart Le Marseny

INTRODUCTION

A collective body of evidence is accumulating indicating that the Family Responsibilities Commission ('FRC'), which has been operating in the Indigenous community of Aurukun in Cape York Queensland since mid 2008, has been accepted as a legitimate form of authority by community members and has laid the foundation for social change. The FRC is providing leadership within the community that cuts across what was previously thought to be impenetrable boundaries of Indigenous clan and family. This has significant implications for future Indigenous social policy formation and presents a rationale that the FRC should be viewed as an Indigenous governance building program, and an entity separate to the Cape York Welfare Reform Program, its original parent program.¹

The viewing of the FRC as a discrete entity allows for the FRC to be perceived not as a component of welfare reform, or a radical new policy or idea, but a continuation and refinement of the policy to strengthen leadership in Queensland Indigenous communities through the transmission of state authority begun almost two decades ago in Kowanyama. The genesis of this policy was implemented in Kowanyama when the first Community Justice Group was established in 1994, and the first Community Police in 1997. These initiatives were supported by the complimentary Council By-Laws passed in 1997.² The By-Laws vested the Justice Group and Community Police with authority to show leadership and use peer pressure to influence social change in the areas of school attendance, child protection, implementation of the alcohol management program and magistrates notices similar to that of the FRC, although without the ability to implement Income Management.

Considering the significance of FRC operations to influence future government policy, there has been very little published on the subject to date. The *Indigenous Law Bulletin* has published the majority of the discussion thus far, with Nicole Watson (2008), Peter Billings (2010) and Colleen Smyth (2011) presenting constructive criticism

into the basic operations of the FRC, and the United Nations Special Rapporteur on the Rights of Indigenous Peoples, James Anaya (2009), providing thoughtful insight into the wider implications of the program, and expressing qualified support for the program.³ In spite of the limited published material, the success and the implications of the success of the FRC have not gone unnoticed. Many politicians, academics, international observers, Indigenous organisations and the Social Justice Commissioner, Mick Gooda, view the FRC as inclusive, consultative and the program that should be used as the model for future implementation.⁴ This viewpoint is further supported by the Women's Council of the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands' recent request for the FRC model of Indigenous leadership to be implemented in their community.

BUT WHAT IS THE FAMILY RESPONSIBILITIES COMMISSION?

The FRC is an independent statutory body with semi-judicial authority and a clearly articulated mandate to facilitate social change through the restoration of Aboriginal authority in the Indigenous communities in which it operates.⁵ The objectives of the FRC are to act as an agent of social change by supporting the restoration of socially responsible standards of behaviour, restoration of local authority and by assisting people to assume primary responsibility for the well-being of their community and the individuals and families within the community.⁶

The FRC achieves these objectives by facilitating the behavioural modification of individuals through elders or other significant community members, acting in their role as FRC Commissioners, articulating the expectations of the community to individuals in the FRC conference setting. Through this operating format, the Commissioners demonstrate leadership and strive to implement what is considered socio-culturally acceptable by the broader community. The comments and responses of the community members of Aurukun in recent research clearly show that these actions are supported and the aspirational objectives of the FRC are being achieved.⁷

Table 1: Client and Conditional Income Management statistics at 1 June, 2012

Community	Adult Population	Total Clients	Total CIM Clients	Current Clients	Current CIM Clients
Aurukun	784	605	244	477	75
Coen	193	134	27	93	2
Hope Vale	588	448	119	293	17
Mossman Gorge	104	126	55	76	22
Total	1669	1313	445	939	116

CIM – Conditional Income Management (BasicsCard) ¹¹

An FRC sitting is very fluid, client centred and adapts to the needs and circumstances of each client.⁸ In Aurukun, the sittings are primarily conducted between the client and the Local Commissioners in the native Wik language and summarised by a Local Commissioner in English to the FRC Principal Commissioner, David Glasgow, who then clarifies key points with the client in English if required. Although the FRC has the capability to income-manage a client, the FRC has principally adopted a method of operation to achieve its core mandate not through negative actions, such as controlling welfare payments, but by providing a training and operating environment for the Commissioners to show leadership and work with community members to implement restorative and procedural justice. Through this mechanism the Commissioners reach approximately 80 per cent of community members for the purpose of information transference in regard to the community expectations of individual members,⁹ whilst ‘promoting the interests, rights and well-being of children and other vulnerable persons living in the community’.¹⁰

Although Conditional Income Management (CIM) is used in a minority of cases, it is used when required. See table above.

As shown in Table 1, over the four year period the FRC has been operating, only 27 per cent of the total population within the communities in which it operates, or 33 per cent of clients, have at any time received a CIM order, with 12.5 per cent of clients currently having CIM orders. In Aurukun, the figures are similar, 31 per cent of the total population, or 40 per cent of clients have at some time in the past four years received a CIM order, with 15.7 per cent of clients currently on a CIM order. Although most people in Aurukun do not view income management as negative, of those who have received the BasicsCard, 81 per cent state that the cards have made their life better by increasing their ability to manage their life.¹²

The statistics also show that the great majority of issues are dealt with by negotiation, and that negotiation is proving to be more effective as time passes. As part of the overall negotiation process the FRC also provides a simple procedure whereby clients can request a review of a CIM decision if circumstances change: an ‘End or Amend’ application. These applications are usually successful. In the April to June 2012 operational quarter, 22 applications to end or amend CIM orders were received, 20 were successful and 2 were unsuccessful.¹³

FRC COMMISSIONERS—LEADERS IN THEIR COMMUNITY

A recent Federal Government sponsored survey of 196 Aurukun community members further indicated that the FRC has become accepted by community members as a legitimate and respected entity to deal with matters that affect the social functioning and well-being of the community.¹⁴ The survey found that 78 per cent of community members believed that the FRC had increased the strength of leadership in Aurukun, 80 per cent of respondents believed that the FRC was good for the community and 87 per cent believed Aurukun would be a better place if everyone followed up on what they discussed with the FRC Commissioners.¹⁵ The recent Aurukun Shire Council elections held in May, 2012, also contributed to the growing body of evidence.

There are four positions on the Shire Council, and four of the FRC Commissioners stood for election. From a pool of eight candidates, three of the Commissioners, Ada Woolla, Edgar Kerindun and Vera Koometta were elected. Considering that over the past four years the FRC has conferenced 605 of the 784 people in Aurukun aged 18 years and over—which equates to almost 80 per cent of the adult and therefore voting population, of whom 477 people are current clients—for three of the Commissioners to have been elected many of the current and former clients of the FRC must have voted for the

Commissioners. In addition, the Commissioners are increasingly being asked to take a lead role in the daily activities of the community, from being the point of contact for visiting government officials,¹⁶ to presenting awards at the local school, or being asked to mediate in disputes between families.

A further example of the acceptance of the FRC occurred in June, 2012, when approximately 200 people were arguing and fighting in a clan-based dispute following a funeral on one street in Aurukun. Clan based melees are not unusual in Aurukun, they can be confronting and quite frightening to witness, but they are not riots or civil disturbances in the normal sense, rather they are group expressions of emotion and clan solidarity. Whilst significant injury or damage to property during these events is rare, outsiders should not interfere due to their significance within the cultural landscape. The police had the street cordoned off at both ends to contain the disturbance, but there was little else they could do. The FRC local coordinator was required to deliver notices to attend conference the following week to a number of community members who either lived in the street where the disturbance was taking place or who were part of the melee. With the permission of the police, a vehicle containing the coordinator and two Commissioners was permitted into the area. Fourteen notices to attend conference were delivered to participants of the melee without incident to the FRC personnel or vehicle. What is the significance of this? The delivery of FRC notices to attend conference is now part of normal life in Aurukun, and this normalisation is further evidence of the acceptance and integration of the FRC into the community.

WHY IS EXTERNALLY SUPPORTED LEADERSHIP REQUIRED?

Whilst the arguments of Tsey, McCalman, Bainbridge and Brown that Indigenous authority and governance systems need to be community grown and owned are valid,¹⁷ they also require some level of authority external to the community. Why? A purely community grown and owned governance system is subject to internal family, clan and community pressure and the factionalising common in Indigenous communities.

Recent studies have estimated that up to 90 per cent of intra-family and 50 per cent of inter-family theft, violence, domestic violence, sexual assault and child abuse in Indigenous communities is not reported to the relevant authorities. Reasons for non-reporting include shame, fear of being misunderstood, fear of intimidation

from perpetrators, fear of reprisal from the extended family of perpetrators and fear of what may become of people in their home community for reporting offences.¹⁸

Therefore, programs that hope to facilitate social change in Indigenous communities need to confront the barriers that prevent reporting, confront the protection of offenders by those close to them and protect vulnerable people from reprisal for reporting. This can only be achieved if a community has clearly articulated boundaries on what is and is not acceptable; there is strong leadership within the community to implement those boundaries; and, there is authority vested in a panel of significant community members to take action if the boundaries are breached or people are intimidated to prevent reporting.

Achieving change in the current environment will therefore require entering the previously private domain of Indigenous clan and family relations, and this can only be undertaken by externally supported members of those clans and families. Peterson named this domain the 'ungovernable space'.¹⁹ Although entering this previously private domain is fraught with complexities, it is a requirement not an option for current and future Indigenous policy makers. The current FRC method of operation has demonstrated that this is difficult, particularly in the start-up phase, but possible, and that the result is worth the effort.

SUMMATION

The method of operation that the FRC has implemented has demonstrated that the impediments to social change in Indigenous communities, whilst real and significant, can be overcome. The FRC model of restoring and increasing local elder authority through their role as Commissioners is the best option currently available for protecting individuals and families and 'promoting the interests, rights and well-being of children and other vulnerable persons'²⁰ living in Indigenous communities during the difficult 'social change' phase. The evidence now supports the understanding that programs based on, or similar to, the FRC model of operation should be considered for implementation into other areas, as advocated by the Northern Territory Emergency Intervention review board in 2008,²¹ Janes Anaya in 2009,²² a range of Indigenous organisations in 2010,²³ and the APY Lands Women's Council in 2012.²⁴

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- 1 Cape York Institute for Policy and Leadership, 'From Hand out to Hand up: Cape York Welfare Reform project' (Design Recommendations Volume 1-2, Final Report, 2007).
- 2 Kowanyama Aboriginal Council By-Laws 1997 <<http://www.kowanyama.qld.gov.au/kac/assets/Documents/00Kowanyama-Aboriginal-Council-By-Laws-1997-LLgaz21-11-97.pdf>>.
- 3 See Nicole Watson, 'The Family Responsibilities Commission Act 2008 (Qld): Cause For Concern' (2008) 7(8) *Indigenous Law Bulletin* 18; Peter Billings, 'The Family Responsibilities Commission: Facilitating Socially Responsible Standards of Behaviour in Cape York?' (2010) 7(16) *Indigenous Law Bulletin* 3; Colleen Smyth, 'Special Measures in Indigenous Welfare Reform: Examining the Cape York Trial' (2011) 7(27) *Indigenous Law Bulletin* 12; James Anaya, 'Statement of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People' (2009) 7(14) *Indigenous Law Bulletin* 20.
- 4 The Northern Territory Deputy Chief Minister, Marion Scrymgour, asked the Commonwealth to explore introducing a model based on the FRC in the Northern Territory; see Billings, above n 3, 3; Anaya, above n 3, 20; Patricia Karvelas, 'Push by NT Government for Indigenous Welfare Body', *The Australian* (online), 17 October 2008 <<http://www.theaustralian.com.au/news/push-for-indigenous-welfare-body/story-e6frg6po-111111774495>>; Peter Yu, Marcia Ella Duncan and Bill Gray, *Report of the NTER Review Board* (2008) <http://www.nterreview.gov.au/docs/report_nter_review.PDF>.
- 5 *Family Responsibilities Commission Act 2008* (Qld).
- 6 *Ibid* s 4.
- 7 Department of Families, Housing, Community Services and Indigenous Affairs ('FaHCSIA'), *Cape York Social Change: Aurukun Community Report* (Research Study, FaHCSIA, 2012).
- 8 Observations of the author, who was permitted to view several days of conferencing in the community of Aurukun.
- 9 Family Responsibilities Commission, *Annual Report 2009/10* <<http://www.frcq.org.au/content/annual-reports>>; Family Responsibilities Commission, *Eight Quarterly Report April to June 2010* <<http://www.frcq.org.au/content/annual-reports>>.
- 10 *Family Responsibilities Commission Act 2008* (Qld).
- 11 *Ibid* s 4.
- 12 FaHCSIA, above n 7, 46.
- 13 Statistics correct at 1 June, 2012, drawn from an unpublished brief prepared for Federal Minister Jenny Macklin.
- 14 FaHCSIA, above n 7.
- 15 *Ibid*.
- 16 E.g. Federal Minister Jenny Macklin requested that Aurukun FRC Commissioners attend the opening of the new boarding school in Weipa, on June 4, 2012, and later held closed talks with the Commissioners.
- 17 Komla Tsey, Janya McCalman, Roxanne Bainbridge and Cath Brown, *Improving Indigenous community governance through strengthening Indigenous and government organisational capacity* (Resource sheet No. 10, Closing the Gap Clearinghouse, January 2012) <<http://www.aihw.gov.au/closingthegap/>>.
- 18 Kylie Cripps, Megan Davis and Caroline Taylor, 'Sexual Violence in Aurukun: The Queen v BP, DK, MY, PA, Koowarta, Wikmunea, Woolla 2007' (2008) 7(9) *Indigenous Law Bulletin* 14; Natalie Taylor and Judy Putt, Australian Institute of Criminology, *Adult Sexual Violence in Indigenous and Culturally and Linguistically Diverse Communities in Australia*, Trends and Issues in Crime and Criminal Justice No. 345 (September 2007); Rex Wild and Pat Anderson, Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, *Little Children Are Sacred* (2007) <http://www.inquirysaac.nt.gov.au/pdf/bipacsa_final_report.pdf>; Matthew Willis, Australian Institute of Criminology, *Non-Disclosure of Violence in Australian Indigenous Communities*, Trends and Issues in Crime and Criminal Justice No. 405 (January 2011); Paul Memmott, Rachael Stacy, Catherine Chambers, and Catherine Keys, Crime Prevention Branch: Attorney General's Department, *Violence in Indigenous Communities* (2001); Tony Fitzgerald, Queensland Department of the Premier and Cabinet, *Cape York Justice Study* (November 2011).
- 19 Nicolas Peterson, 'Other peoples lives: Secular assimilation, culture and ungovernability' in Jon Altman and Melinda Hinkson (eds), *Culture Crisis: Anthropology and Politics in Aboriginal Australia*, (UNSW Press, 2010) 248-58.
- 20 FRC Act, above n 5, s 4.
- 21 Yu et al., above n 4.
- 22 Anaya, above n 3, 20.
- 23 FRC Act, above n 5, s 4.
- 24 Sarah Martin, *The Australian* (20 July 2012); article was a follow up to the report aired on the ABC's 7:30 report on Wednesday, 18 July; the discussions have progressed, the FRC Principal Commissioner, David Glasgow, visited the APY lands in the week beginning 20 August, 2012. A reciprocal visit is currently arranged for elders of the APY lands Women's Council to visit Aurukun to see firsthand conferencing in action.