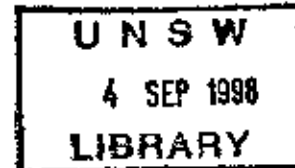


*Human Rights and  
Equal Opportunity  
Commission*



**Report Commissioned by the  
National Inquiry into Racist Violence**

**ABORIGINAL-POLICE  
RELATIONS IN REDFERN:**

**WITH SPECIAL REFERENCE TO  
THE 'POLICE RAID' OF  
8 FEBRUARY 1990**

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**May 1990**

Published by the Human Rights and Equal Opportunity Commission,  
Sydney, May 1990

ISBN 0 642 15439 2

Research assistance was provided by Kate Kerley.

The assistance of the National Aboriginal and Islander Legal Services  
Secretariat and Redfern Aboriginal Legal Service is gratefully acknowledged.

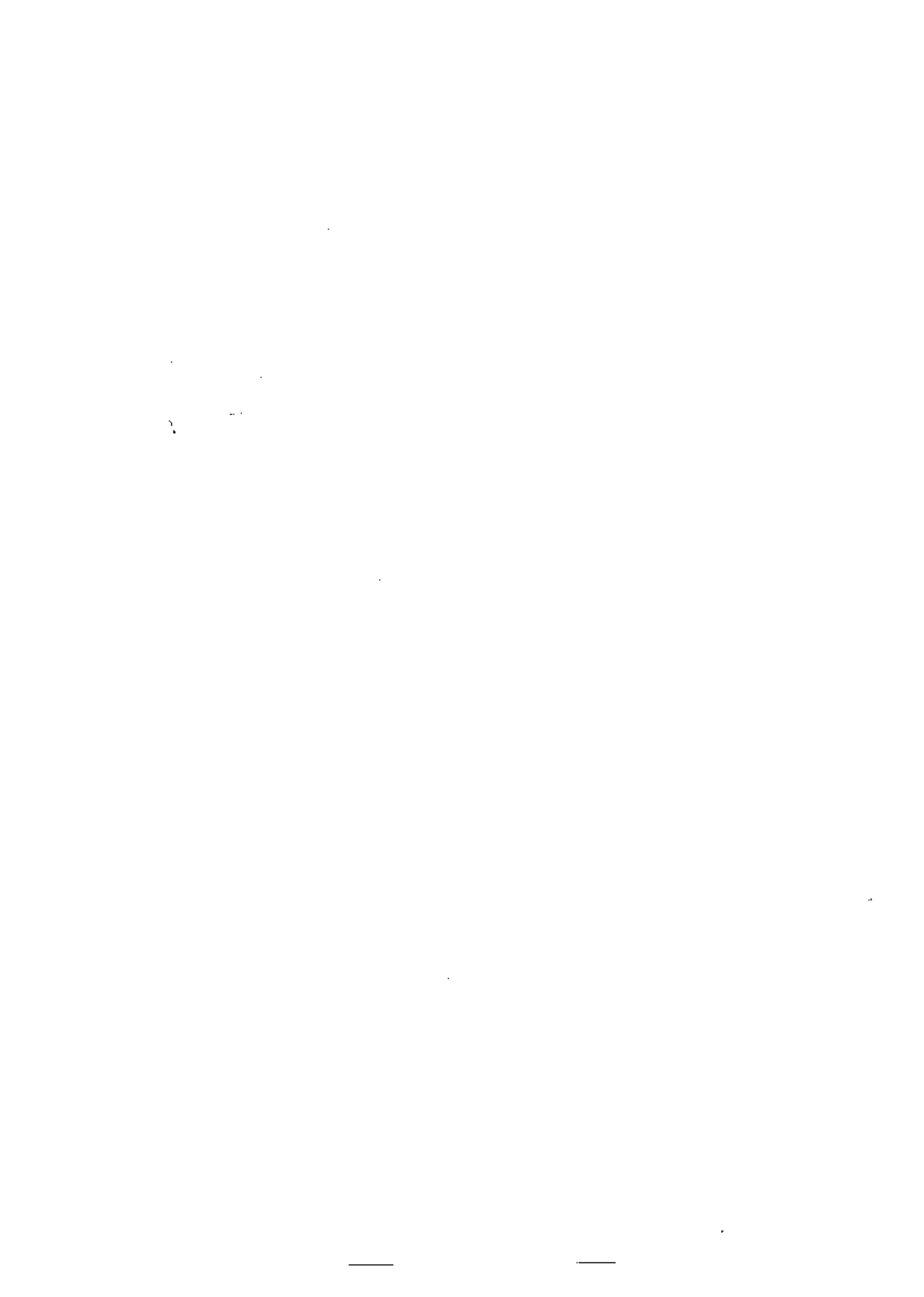
Thanks also to Professor Garth Nettheim, Dr Gillian Cowlshaw and Terry  
Liebesman who commented on the draft report.

**Abbreviations:**

|         |   |
|---------|---|
| ALS:    | Aboriginal Legal Service                                    |
| CIB:    | Criminal Investigation Branch                               |
| NAILSS: | National Aboriginal and Islander Legal Services Secretariat |
| SWOS:   | Special Weapons and Operations Squad                        |
| TRG:    | Tactical Response Group                                     |

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## 1. HISTORICAL BACKGROUND

Complaints concerning police activities against Aboriginal people in Redfern are not new. It is important to recognise that the extent of complaints concerning discriminatory police methods in Redfern led to the establishment of the first Aboriginal Legal Service (ALS) in 1970.

In the late 1960s and early 1970s Aboriginal people claimed that in Redfern they were regularly arrested without cause and that they were the subject of a police-imposed curfew (Lyons, 1984, p.138). Complaints also centred around police activities outside the Empress and Clifton Hotels. As the Ruddock Report (1980, p.24) noted, the establishment of the ALS was the result of complaints concerning 'police activities allegedly directed against Aboriginals in and around... Redfern'.

It is often difficult for non-Aboriginal Australians to understand the depth of police intervention into Aboriginal life. In discussing the establishment of the ALS in Redfern and the use of a curfew in Redfern in 1970, Justice Wootten noted,

*I found, as most people do, it [the curfew] a little hard to believe when I first heard it, but when I observed it operating with my own eyes, I was left with little doubt. The simple position was that any Aboriginal who was on the streets of Redfern at a quarter past ten was simply put into the paddy wagon and taken to the station and charged with drunkenness, and that was something that was just literally applied to every Aboriginal walking along the street, irrespective of any sign of drunkenness in his [sic] behaviour. This and the associated problems gave rise to very strong feelings amongst Aboriginals here. (Wootten, 1974, p.60)*

Complaints concerning the treatment of Aboriginal people by police in the Redfern area continued during the 1970s. In early 1971 complaints were made concerning the arrest and bashing of an Aboriginal youth picked-up in Victoria Park (*Sydney Morning Herald*, 21 May 1971, p.3). The youth was charged with using indecent language.

Complaints from Aboriginal people in Redfern were not solely directed at police stationed in Redfern. Indeed an ongoing concern has been the activities of police from outside the region. In particular during the early 1970s there were objections to the 21 Division (also known as the 'mobile' or 'riot' squad) and police stationed at Regent

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Street. In 1973 there were specific complaints relating to the alleged violence by 21 Division police against Aboriginal adults and youth (*Identity*, August 1973, pp.36-37). Other complaints concerned policing strategies around the Empress Hotel, and accusations that police were 'baiting' Aboriginal people in Redfern and then arresting them (*Sydney Morning Herald*, 7 September 1974, p.13).

Evidence of discriminatory policing in Redfern during the early 1970s also received support with the publication of court statistics for the Central Court of Petty Sessions (which covers the Redfern area). The NSW Bureau of Crime Statistics and Research (1973, pp.41-45) indicated that Aboriginal people were over-represented by a factor of 10.7 compared with their population in the inner-city. Furthermore 63% of offences for which Aboriginal people were convicted were for unseemly words and vagrancy. This figure was double the proportion of such convictions for the total inner-city population.

In March, May and September 1973 there were meetings between police, the ALS and other Aboriginal organisations as a result of the conflict in Redfern. Police at the meeting included an Assistant Commissioner and senior police from the 21 Division and Redfern. One outcome of the meeting was the establishment of an Aboriginal-police liaison committee. It was claimed that, as a result of the meetings, arrests of Aboriginal people dropped by 75% (*Sydney Morning Herald*, 7 September 1974, p.13). However one explanation for the drop in arrests was an 'alteration in police practices rather than any change in the behaviour of Aborigines in Redfern' (Anti-Discrimination Board, 1982, p.138). In evidence later submitted to the Ruddock Committee, the ALS claimed that when the liaison committee was first established it operated 'reasonably well' because

*most negotiations were carried out on behalf of the Service by the non-Aboriginal professionals associated with it. As soon as Aboriginals assumed full control of the Service, Aboriginal-police relations deteriorated. (Ruddock Report, 1980, p.138)*

It appears that by mid-1975 the liaison committee had ceased to operate. Certainly complaints from the ALS about police tactics in Redfern soon re-emerged. During April 1975 a number of incidents occurred outside the Empress and other hotels where the ALS claimed that Aboriginal people were being victimised by police. There were also claims by Paul Coe, then the vice president of the Legal Service, that the staff of the Legal Service were being harassed by police and arrested on 'trumped-up' charges (*Sydney*

*CHRIS CUNNEEN*

*Morning Herald*, 8 May 1975, p.10). A solicitor for the Legal Service at the time, Peter Tobin, stated that more than half of the Service's staff had been arrested in the previous few months.





## 2. POLICING REDFERN IN THE 1980s

During the 1980s there were numerous complaints concerning police activity in Redfern. The information presented in Table 1 is by no means exhaustive<sup>1</sup>. The table represents the large-scale police incursions which have been the subject of complaints by the ALS (either to the media and/or the Ombudsman's Office) and have been the subject of widespread media attention.

**TABLE 1**  
Major Police Incursions into Redfern  
1981-1990

| Year          | Police                  | Arrest | Official Complaints |
|---------------|-------------------------|--------|---------------------|
| May 1981      | 20 Vehicles             | 5      | U/k                 |
| December 1981 | Rescue Squad            | N/A    | U/k                 |
| January 1982  | Special Crime Squad     | 13     | Yes                 |
| November 1983 | 80 Police               | 34     | Yes                 |
| December 1987 | TRG                     | N/A    | U/k                 |
| August 1988   | TRG                     | N/A    | U/k                 |
| July 1989     | 6 (Sth Reg Crime Squad) | 0      | Yes                 |
| October 1989  | 10 (Redfern & others)   | 3      | Yes                 |
| January 1990  | Operation Beatham       | 14     | Yes                 |
| February 1990 | 135 (TRG, others)       | 8      | Yes                 |

N/A = Not Available  
U/k = Unknown

During May and December 1981 there were media reports of 'clashes' between Aboriginal people and police in Redfern. According to the *Sun* (14 May 1981) approximately 150 people

<sup>1</sup> A limitation in compiling the research material has been the lack of records suitable to the research task. The NSW Office of the Ombudsman has not, in the past, provided statistics in relation to police complaints which specified the Aboriginality of the complainant, the nature of the complaint against the police, or the region from which it originated. Similarly the records held by the ALS are not retrievable in a way which would indicate the nature or locality of particular policing operations. In addition all the files held by the Redfern ALS prior to March 1985 were destroyed in a fire on the premises.

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barricaded Eveleigh Street Redfern. Twenty police vehicles with an unknown number of police confronted the crowd. Missiles were thrown at the police and five arrests were made. In December 1981 a similar confrontation occurred between an estimated crowd of 200 Aboriginal people and an unknown number of police, including the police rescue squad. According to the report (*Daily Mirror*, 2 December 1981) there had been a number of 'potentially explosive situations' between police and Aborigines in the area over the previous twelve months.

As a result of an ALS and Council for Civil Liberties investigation, more extensive documentation of alleged police harassment in Redfern occurred after particular policing operations during January 1982. A Special Crime Squad went to the Clifton Hotel on the night of January 27, 1982. A number of Aboriginal women were detained under the Intoxicated Persons Act and taken to the cells at Central Police Station. At closing time of the hotel there were two police wagons and 2 police cars parked outside. A solicitor from the Aboriginal Legal Service, who was present at the time, described the police actions as 'obstinate and provocative' (*Civil Liberty*, No 99, p.11). According to the solicitor, a 'heavy-handed approach' by police was adopted which resulted in a number of arrests for obstructing the footpath and other similar summary charges. On the following nights there was also a strong police presence although fewer arrests, possibly because of the presence of ALS solicitors and observers from the Council for Civil Liberties. According to Tickner (1982) the events around the Clifton Hotel were an example of intensive 'sector policing'. The Clifton Hotel, at the time, was the major hotel for the social gathering of Aboriginal people in the area. Tickner noted that

*no other hotel in Redfern is subject to such an intensive policing nor is there any evidence to suggest that the streets of Redfern, other than those in the immediate precincts of the Clifton Hotel, are being intensively patrolled.*

The police patrols of the area continued through 1982 including the attendance of a police mini-bus and regular foot patrols. According to a spokesperson from the ALS, police activities in the area indicated that 'it is self-evident that the police are waiting for any excuse to start a riot situation in Redfern' (*Civil Liberty*, No.99, p. 12). Although there is no conclusive evidence, the use of the mini-bus and the nature of the foot patrols (in groups of 8 to 10 police) suggest that the Tactical Response Group (TRG) may have been involved. The TRG became operational in May 1982.

In early November 1983 there was a major policing operation centred first around the Clifton Hotel and later in Eveleigh Street. It was estimated that the operation involved some 80 police officers, 30 police cars and 15 police vans. Thirty four Aboriginal people were detained under the Intoxicated Persons Act, none were arrested on substantive charges (*Civil Liberty*, No. 110, pp.17-19). Of the more serious injuries sustained by Aboriginal people, one woman in the Clifton Hotel had her front teeth knocked out after being hit, allegedly by a police officer, while a 16 year old girl, who was 4 months pregnant, miscarried after being hit in the groin, allegedly by an officer. The original incident at the Clifton Hotel was sparked when a small object was thrown at a police van which was patrolling in front of the hotel at closing time. A large scale disturbance was reported by the police to the Criminal Investigation Branch (CIB) headquarters and, as a result, an 'all points' bulletin was issued which drew police from as far as Sutherland, Campsie, Maroubra, Waverley and Balmain (*Civil Liberty*, No. 110, p.18). Complaints were made to the NSW Office of the Ombudsman through the ALS. Complaints included the following:

1. the misuse and inappropriate application of the Intoxicated Persons Act;
2. assaults by police;
3. the removal of identification numbers by police;
4. provocation by police at the commencement of the disturbances;
5. the failure of the police to contact the Aboriginal/Police Liaison Unit until long after the disturbances were over;
6. the ill-treatment of doctors who attempted to examine those arrested;
7. the detention of persons under the Intoxicated Persons Act who had not consumed alcohol;
8. police breaking into people's homes in Eveleigh Street and detaining them under the Intoxicated Persons Act.

The then NSW Minister for Aboriginal Affairs, Frank Walker, also ordered an investigation into the incident. Certainly research conducted by the NSW Bureau of Crime Statistics and Research (1984) indicated a disproportionate use of the Intoxicated Persons

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Act in relation to Aboriginal people generally<sup>2</sup>. In addition research by the Anti-Discrimination Board (1982) highlighted the disproportionate use of public order legislation against Aboriginal people.

On 10th December 1987 there was a confrontation between about 40 Aboriginal people and 20 police at the top of Eveleigh Street near the railway station. According to the ALS, the Tactical Response Group were called to the incident. The Leader of the National Party, Wal Murray, was reported as saying that police should be able to use dogs to 'break-up uncontrollable mobs' (*Sydney Morning Herald*, 11/12/87, p.2).

In August 1988 there was a confrontation between 50 police in riot gear, led by the TRG, and approximately 50 young Aboriginal people. The police made repeated baton charges into the crowd in Eveleigh Street. As a result of the riot, the NSW Attorney General, John Dowd, announced changes to the Crimes Act, with the introduction of a new statutory offence of riot. The NSW Police Association called for the permanent establishment of the TRG in Redfern (*Sydney Morning Herald*, 5/9/88, p.5). In evidence to the Human Rights and Equal Opportunity Commission's community hearing in Redfern on 24th August 1989, the events surrounding the riot were raised by a number of witnesses. Shane Phillips made the important point that, although the police were originally seeking to arrest one alleged offender, the whole community became the subject of the policing operation. The day after the riot the TRG was again in Eveleigh Street, Redfern. On this occasion Phillips was referred to as a 'little black cunt' by a TRG officer (Human Rights and Equal Opportunity Commission, 1989, pp.29-30).

The summary of information provided above shows that there has been a continuity in complaints concerning police activities in Redfern for the 20 years between 1970 and 1990. Many of those complaints related to discriminatory policing practices and the excessive use of force. It is also noteworthy that in the later 1980s there has been an increasing use of TRG personnel in the Redfern area.

<sup>2</sup> In later years the Ombudsman's Office commented on the improper use of the Intoxicated Persons Act. 'Complaints... suggest its [Intoxicated Persons Act] arbitrary misuse to secure temporary unappealable lock up of difficult persons thought to be hostile to police authority' (NSW Office of the Ombudsman, 1985, p.129). See also NSW Office of the Ombudsman, Annual Reports, 1985/86, 1986/87 and 1987/88.

## 3. POLICING OPERATIONS IN 1989/90

### 3.1 David Gundy

Although David Gundy was killed in Marrickville, there are several reasons for considering his death within this report. Firstly the policing operation came under the command of South Region police who were responsible for a number of incidents in Redfern. Secondly the nature of the raid and the manner of David Gundy's death have parallels with other operations involving Aboriginal people. Thirdly the death of David Gundy has had a profound impact on Aboriginal/police relations generally.

David Gundy was killed when police raided his home before dawn on 27 April 1989. Eight members of the Special Weapons and Operations Squad, (SWOS) armed with shotguns, a sledgehammer and a search warrant, were seeking a suspect in relation to the murder of a police officer. The suspect was not in the house at the time. David Gundy was killed in his bedroom by a shotgun blast fired by one of the SWOS officers. The coronial inquiry accepted the evidence of officers that the gun had accidentally discharged during a struggle.

Shortly after the death, the NSW Ombudsman released a report arising from an earlier incident involving a SWOS officer. The same officer was in charge of the SWOS team which raided Gundy's house. The Ombudsman's report, *Inadequate Training and Procedures of the Special Weapons Squad* (1 May 1989), recommended that the procedures and instructions for SWOS in relation to arrest, detention and interrogation be reviewed immediately by the Commissioner of Police (NSW Office of the Ombudsman, 1989). One year later, on 1st May 1990 the Ombudsman reported to Parliament that 'the history of the review of SWOS procedures and operations recommended by the Ombudsman is one of inaction and gross delay' (NSW Office of the Ombudsman, 1990, p.8).

The Royal Commission Into Aboriginal Deaths in Custody was prepared to investigate the death of David Gundy. However a successful challenge was made to the Federal Court by the NSW Police Association. Counsel for the Association argued that the death was outside the Commission's terms of reference because it did not occur in custody. An appeal has been lodged by the ALS against the Court's decision. It is unclear at present whether the Royal Commission will be able to hear the case.

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### **3.2 Alexandria Park**

On 14 July 1989 between 500 and 1,000 Aboriginal people were celebrating National Aboriginal Day with a children's sports carnival in Alexandria Park, Redfern. Plainclothes police officers from the South Region Crime Squad attempted to arrest an Aboriginal man wanted on two warrants and for questioning in relation to another offence. A summary of the incident was compiled by the ALS and basically described what happened as follows.

Over 60 per cent of those in attendance at the carnival were children. During the carnival five or six persons, who later identified themselves as police officers, entered the park area with guns drawn. None of the police officers was in uniform and none of the officers immediately identified himself as police. Two of the persons discharged their pistols, firing four or five bullets. There were a number of other people, including children, in the immediate vicinity. One person in the park wrestled a police officer to the ground in order to stop him further discharging the pistol in the vicinity of the spectators. When the person being sought by police drove away in a truck parked at the carnival, the police fired further shots although there were children on the back of the truck.

Apparently the location of the person wanted by police had been known to police officers for some months and negotiations had been underway with an Aboriginal Police Liaison Officer for the person to surrender himself to local police. The Liaison Officer warned police that the lives of women and children would be endangered if they tried to arrest the individual with guns. The Liaison Officer, Alan Johnson, said the information was ignored. He described the Liaison Unit as 'just a token body' (*Sydney Morning Herald*, 18/7/89, p.3, and *Land Right News*, July 1989, p.15).

The week following the incident some 150 people marched from Alexandria Park to Police Headquarters calling for an inquiry into the incident. According to another Aboriginal Police Liaison Officer, Mary-Lou Buck, the community wanted an independent investigation (*Sydney Morning Herald*, 21/7/89, p.9).

The matter has been referred to the NSW Office of the Ombudsman. There has been no conclusion to the investigation as yet.

### 3.3 Other Operations/Incidents

On 22 May 1989 a vehicle was stolen from Chippendale and driven to Caroline Street, Redfern. Police who were following the car were apparently confronted by approximately 20 young Aboriginal people. The police withdrew and the vehicle was vandalised. The incident caused widespread media comment with Redfern described as a 'no-go' area.

In October 1989 police were accused of brutality in the arrest of a 16 year old Aboriginal juvenile who was on crutches at the time. Approximately 10 officers in eight police vehicles were used to arrest the juvenile. Other youths who were present allegedly threw bottles at the police. Shane Phillips, an officer at the time with the Royal Commission Into Aboriginal Deaths in Custody, tried to diffuse the situation. He was allegedly elbowed by police and called a 'black c...' (*Sydney Morning Herald*, 20/10/89, p.3). The mother of the juvenile described the police action as 'excessive and brutal force'.

Two police operations were conducted in January 1990 called Operation Beatham and Operation Windows. Both operations resulted in high-profile police presence in Redfern. Shane Phillips from Eveleigh Street described the police as acting provocatively and harassing innocent people. Operation Windows involved the use of foot patrols in the Redfern area.

Another incident occurred during 1989 which, while not a confrontation between police and Aboriginal people, did impact upon Aboriginal/police relations in the area. On 23 May 1989, Channel 9 screened a Sixty Minutes programme entitled *The County*. The programme featured Chief Inspector Peek and Senior Constable Hersch from Redfern police. The programme was the subject of a complaint from the Redfern Youth Action Group to the Australian Broadcasting Tribunal. According to the Youth Action Group the programme was 'inaccurate, racist and extremely offensive'. The programme featured Constable Hersch explaining that police officers referred to the area around Eveleigh Street as 'the county'. This phrase, he further explained, meant 'Coon county'. The programme also contained a segment with the media crew filming from inside a police vehicle as it drove down Eveleigh Street during the evening and 'spotlighted' Aboriginal people on the street.

The racist term the 'county' as a reference to the Aboriginal community in Redfern has apparently widespread usage amongst police. Indeed the President of the NSW Police Association, Tony

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Day, has publicly referred to the area as the 'county' (*NSW Police News*, September 1988, p.3).

During 1989 the two incidents in particular which caused a further deterioration of Aboriginal/police relations in the area were the police operation in Alexandria Park and the shooting of David Gundy. Both operations involved the South Region Crime Squad and the killing of David Gundy also involved SWOS. Both operations involved the execution of warrants and both were the subject of complaints in relation to the excessive use of force. In addition the incident at Alexandria Park drew complaints that police had ignored the advice of the Aboriginal Police Liaison Officers.

#### **3.4 The Human Rights and Equal Opportunity Commission's National Inquiry into Racist Violence Hearing in Redfern, 24 August 1989**

On 24 August 1989 the Human Rights and Equal Opportunity Commission's National Inquiry into Racist Violence conducted a public hearing in Redfern to gather evidence for its inquiry into racist violence. Much of the evidence which was presented related to policing operations in Redfern during 1989 and previous years. The evidence covered some of the events already referred to in this report including earlier riots, the death of David Gundy, the Alexandria Park incident and the Sixty Minutes programme. In addition evidence was presented relating to police brutality and racism. According to Tiga Bayles, police brutality 'takes place almost every day in Redfern', the 'violation of rights and the brutality that takes place is a regular occurrence' (Human Rights and Equal Opportunity Commission, 1989, pp.10-11). Evidence also related to the fear by Aboriginal people of police and the provocative role police play in the area with 'patrols around the block every ten minutes' (Human Rights and Equal Opportunity Commission, 1989, pp.28). Aboriginal youth, who were members of the Redfern Youth Action Group, recounted incidents where they had been allegedly sworn at, kicked and bashed by police officers.

Superintendent Iresdale, the Acting Commander of the Sydney District, also gave evidence at the hearing in relation to community policing initiatives in the area. There was however substantial criticism by Aboriginal people at the hearing of particular practices, including harassment and the use of the TRG, which it was said broke down attempts to establish better community relations.



## 4. THE 'REDFERN RAID' 8 FEBRUARY 1990

### 4.1 The 'Raid'

The policing operation referred to as the 'Redfern Raid' occurred in the early hours of the morning on 8 February 1990. The operation was code-named *Operation Sue* and included 135 police from the Tactical Response Group, the Anti-Theft Squad, the Rescue Squad and other officers including Redfern police. The operation came under the command of Executive Chief Superintendent Alf Peate, the Sydney District Commander.

Police gathered at the Sydney Police Centre at 2am for the pre-raid briefing,<sup>3</sup> then moved to positions around the 'block' (Eveleigh, Caroline, Vine and Hugo Streets, Redfern) shortly before 4am. Some 70 police, led by the TRG, conducted the raids on at least eight houses<sup>4</sup>, while the remainder of the police provided back-up support and sealed-off the area.

The police were issued with at least eight search warrants two days previously. As a result of the raid at least eight arrests<sup>5</sup> were made. One of those arrested was a juvenile. During the raid, iron bars and sledgehammers were used to gain entry into houses. According to statements which were made by residents some police were armed with shotguns, although Superintendent Peate publicly denied that shotguns were used during the raid (*Sydney Morning Herald*, 9/2/90, p.2). There is however no denial that police were carrying firearms and batons.

### 4.2 The Arrests

Of the 8 persons arrested:

- 3 persons were charged with goods in custody;

3 There is some discrepancy over the time of the police arrival. Some statements by Aboriginal people in Redfern put the arrival time at closer to 1am.

4 According to the Minister for Police and Emergency Services the operation involved 10 premises in four streets (Ted Pickering, NSW Legislative Council, 22 February 1990). However information provided to the ALS and NAILSS relates to the raid on eight residences.

5 Eight arrests according to ALS, 10 arrests according to the NSW Police Minister.

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- 1 person (a juvenile) was charged with possession of an implement for the use of drugs;
- 2 persons were detained for unpaid warrants;
- 2 persons were detained for warrants relating to breach of bail and fail to appear; and another warrant for being under the influence of intoxicating liquor on the railways.

One case of goods in custody<sup>6</sup> related to the alleged possession of several handbags and wallets, including a bankcard and health card in other names, and several minor items including an electric shaver, 2 knives, 2 watches, a bracelet, a pair of goggles, 3 video tapes, etc.

Another case of goods in custody involved the alleged possession of a TV and video recorder.

The third case of goods in custody related to the alleged possession of a TV, a radio cassette player, a camera, a graphic equaliser and other minor items.

3 Information was available for four of the warrants used to detain individuals. Three warrants related to offences which had been allegedly committed many years previously. One warrant related to a breach of bail conditions by failing to appear at Redfern Court on 30 December 1982. This warrant was thus 7 years and 2 months old at the time of execution. Another warrant related to a failure to appear at Newcastle Court on 29 May 1984. This warrant was 5 years and 9 months old at the time of execution. The third warrant related to a charge of being drunk on the railways at Broadmeadow on 20 April 1984. This warrant was 5 years and 10 months old at the time of execution.

The fourth warrant related to a breach of a community service order.

### **4.3 Search Warrants**

The police raid revolved around the execution of eight search warrants in relation to premises in Caroline Street, Louis Street and Eveleigh Street. Information was available to this researcher in relation to seven search warrants.

<sup>6</sup> 'Goods in custody' refers to the alleged possession of goods suspected of being stolen or otherwise unlawfully obtained.

*CHRIS CUNNEEN*

All warrants were issued at Waverley Local Court by Alexander Mijovich at 3.15pm on 6 February 1990. In all cases the applicant was a sergeant from the Sydney District Anti-Theft Squad.

Under the Search Warrants Act 1985, the occupier on whom the warrant is served may inspect the original application for the warrant, and the written reasons for the issue of the warrant, at the Local Court of issue. Officers from the National Aboriginal and Islander Legal Services Secretariat (NAILSS) inspected the documentation on behalf of the occupiers. The information which was used by the applicant as grounds for the issue of the search warrants was supplied by a senior sergeant from Redfern Police Station. In addition, in all cases the applicant stated that he had been requested to obtain the warrants at the direction of Executive Chief Superintendent Peate.

The seven search warrants are dealt with in more detail below in Table 2.

**TABLE 2**  
Search Warrants, Arrests,  
Goods Recovered

| Search Warrant | Suspect Named | Suspect Arrested | Others Arrested | Specified Items Found |
|----------------|---------------|------------------|-----------------|-----------------------|
| Warrant 1      | Yes           | No               | No              | No                    |
| Warrant 2      | Yes           | No               | Yes             | No                    |
| Warrant 3      | Yes           | No               | No              | No                    |
| Warrant 4      | No            | No               | Yes             | Yes                   |
| Warrant 5      | Yes           | No               | Yes             | Partial               |
| Warrant 6      | Yes           | No               | No              | No                    |
| Warrant 7      | No            | No               | Yes             | No                    |

There was a limited amount of information written down as grounds for the application for the search warrants. Grounds for the applications all contained the additional rider 'together with information supplied orally'. According to officers from NAILSS, Mijovich who issued the warrants stated to NAILSS, 'there was a lot

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of information given to me orally that was just too sensitive to be written out', including informants' names and other matters.

However, in five of the seven warrants suspects were named and related to various alleged offences including car theft, break and enters and assault. In none of those instances were the individuals arrested. In most cases the specified items were not seized, although items suspected of being stolen were. For instance in warrant 7 shown in Table 2, the grounds for the issue of the warrant were that the premises had been observed by police surveillance as being used for the supply of drugs, and that a number of firearms had been reportedly secreted in the ceiling of the premises. As a result of the execution of the warrant on these premises, one person was arrested on two warrants more than five years old relating to fail to appear in court and intoxicated on railway. Goods allegedly seized from the premises were two implements for smoking cannabis and two milk crates, the property of Dairy Farmers.

In warrant 5 shown in Table 2 the grounds for the application for the search warrant named two individuals who were suspected of involvement in break and enters and armed hold-ups. It was also reported that there were firearms on the premises, possibly the proceeds from armed hold-ups and other stolen property. Neither of the two individuals were arrested nor were any firearms discovered during the execution of the warrant. Two different individuals were arrested on the premises. One was charged with goods in custody (a TV and video recorder), the other with an outstanding warrant for breach of a community service order.

The issuing and execution of the warrants raise a number of questions relating to police practices: firstly, the adequacy and reliability of information from police surveillance and informants; secondly, the adequacy of the requirements necessary for the issuing of search warrants, in particular the adequacy of the information required to constitute sufficient grounds for the issuing of search warrants; and thirdly, the methods used in the execution of the warrants.

### **4.4 Complaints by Residents**

The following information is based on nine signed statements by individuals inside seven of the eight houses which were raided by police. Additional information is drawn from six other statements or transcripts of tapes made by persons who witnessed the police raid.

---

<sup>7</sup> The information was collected by staff of NALSS and Redfern ALS.

### House 1

The occupant of house 1 stated that he witnessed, from the upstairs balcony of his house, police arriving at around 4am in a minibus. He recognised the police as TRG officers because of the riot gear they were wearing including shields, batons, helmets and vests. He stated,

*They were also carrying firearms that looked like riot guns, that is shotguns. These were about two and half feet long, they were holding them at the side of their legs pointing to the ground at that stage.*

Approximately five police approached the door of his residence and shouted, 'Open the fucking door', several times. He went downstairs and opened the door. He and his wife were told to lie on the floor. He was handcuffed. The police officers began searching the house. His 11 year old son was upstairs in bed at the time. His son stated that when the police entered his room he was grabbed by the back of the neck and told to get up. The police officers had guns pointed at him. According to the statement he came downstairs crying and very frightened. The occupant was charged with goods in custody. The police allegedly took a couple of old credit cards, broken children's walkmans, some junk jewellery, a couple of handbags and wallets, and videos tapes which according to the occupant had been borrowed from friends.

The occupant's copy of the search warrant which was left at the house was originally addressed to the residence next door. The number had, however, been changed in biro to the number of the house which was entered.

### House 2

The occupant stated that she was at home with her sister on the night of the raid. She was in the toilet when she heard a lot of noise in the house. She stated, 'I came out of the toilet and saw coppers standing there with a gun to my sister's head. They tried to shove me a bit too.' She stated that the police took her prescription medicine. The occupant had only recently been discharged from Royal Prince Alfred Hospital and was ill at the time of the raid.

### House 3

Two of the four persons in the house at the time made statements concerning the police raid. The two occupants (husband and wife) were in the upstairs bedroom asleep at the time. Both stated that

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three or four police burst into the bedroom. Some police were carrying batons. The male occupant was pulled out of bed and told to lie on the floor with his hands behind his back. The room was searched for 15 to 20 minutes, then the two persons were taken downstairs to join the other two occupants. Police were in the house for approximately one and a half hours. The result of the raid was that one person was arrested on a warrant dating back 7 years.

### **House 4**

At the time of the raid the house was occupied by a man and woman and their four children aged between 6 months and 10 years old. Statements were made by both the adults present during the raid. The occupants were awoken by banging on the front door. The door was smashed in and approximately 8 police entered the house. The adult occupants were in an upstairs bedroom with their 6 month old baby. Approximately four police entered the bedroom. When the husband moved to pick up the baby, who was crying, he was pushed onto the bed by an officer. The officer said 'don't move' whilst pointing a gun at the head and upper chest area of the husband. The woman in her statement wrote,

*I started to move on the bed. The people said 'don't move, police'. I was shaking and I almost fell off the bed. When I moved to sit properly on the bed, the policeman holding the gun pointed the gun at me and said 'Don't move'. I didn't say anything. I was very frightened.*

The police began to search the house. The woman stated that it was then she realised that there were police in her children's room. The police allegedly collected a number of items from the rooms including a telephone, TV and several bags. According to the occupant, the police asked her if she had receipts for certain items. She replied, 'No. I don't even keep my rent receipts'.

The occupant's statement goes on to relate,

*All this time I was in my nightie. I wanted to breast feed my baby. The police told me they wanted me to go to the police station to answer questions. A police officer asked me if I wanted to change out of my nightie before going to the police station. When I said yes, however, they would not let me change in private. I had to get my husband to stand between me and the police officer who insisted that I keep the bedroom door half open while I changed my clothes. I had to take the baby with me to the police station. There were four male police officers in*

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*the car that took me to the police station. They would not get a female officer to go with me to the station.*

The woman's statement concludes that 'the experience was terrifying to me and my family and degrading'.

### House 5

House 5 was occupied by a 67 year old woman who was alone in the house at the time. The woman awoke to find six or seven male police standing in her bedroom. She stated that she did not immediately recognise the men as police because she was sound asleep at the time of their entry. She stated,

*The first thing that I knew was that my bedroom door was open and six or so men were standing in my room. I got that much of a shock that I fell off the bed because I didn't recognise them as police on account of the fact that I had been fast asleep. The police were carrying batons and guns and they had helmet things on their heads and bullet proof vests on too.*

Police told the woman that they were searching for two boys. She was presented with a search warrant but did not read it because she was too upset. Several more police arrived and continued the search of the premises. No items were removed and no arrests were made. The woman concluded in her statement,

*After they'd done all their searching the police just left. They didn't say anything. They had broken the lock on my door. So then I haven't had a proper night's sleep. I haven't had a heart attack yet over it, but I'm worried because I have had a heart attack once before.*

Two other witnesses who lived nearby the 67 year old woman confirmed in statements that the police had used a sledgehammer to break open the front door. They also confirmed that the police were carrying 'big guns', 'long guns'. In one statement the guns were described as having 'long barrels with a light or torch on top'. The witness described the police searching the woman's house including 'pulling food out of her cupboards and going through the fridge'. The occupant of the house was described as looking 'very frightened' and 'very upset'.

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### **House 6**

An occupant of this house stated that police came running through the front door so fast that they bumped into one another. The police were carrying shotguns. He stated,

*They [the police] were shaking. I'd never seen police shake like that before. I was frightened that they were going to shoot me... I have no idea why they had to pull shotguns onto us. They said they were looking for drugs and guns, but they only searched one person and found one person had an old warrant. They took him away.*

### **House 7**

At the time of the raid the house was occupied by two adults and two children aged 6 and 9 years old. The woman in the house made a statement concerning the events. She stated that she was awoken by a bang and then about five police entered the bedroom and told her and the male occupant to get up. The male was told to lie on the floor; there was a shotgun held towards his head. The woman was punched to the other side of the room. The two children were screaming. The police had a photo of a male person for whom they were searching. The photo was of a different person from the male occupant of the house.

The woman was questioned about a TV and video allegedly in the house. She was arrested for goods in custody.

### **Summary of Complaints**

A number of issues was raised by many of the occupants of the residences which were raided. These included the degree of force used by the police both to gain entry and after entering the houses; the condition in which the houses were left after the searches had taken place; and the fact that goods were considered to be unlawfully obtained if the occupants were unable to produce receipts for their purchase. Some of the occupants who were awoken from their sleep by the entry of police into their bedrooms stated that they were initially unaware that the intruders were police and that they were confused as a result of having their sleep disturbed in such a manner. Clearly the potential for a struggle with police who were, at least by some accounts, heavily armed is heightened under such conditions. The likelihood that such a struggle could have resulted in serious injury or death for any of the occupants of the houses was present.



#### 4.5 Redfern Community Meeting

At 12 noon on 8 February a community meeting was called at the Mundine Gym on the corner of Eveleigh and Vine Streets. Approximately 100 Aboriginal people attended the meeting to discuss the morning raid by police. Many of the occupants of the houses which had been raided were present at the meeting. The community meeting issued a press release which covered the main concerns of those who were present. The meeting expressed disgust at the police tactics which were used particularly in relation to elderly people, children and other persons who were sick. It was noted that the search warrants were issued on the very day (6 February 1990) earlier in the week when the Royal Commission into Aboriginal Deaths in Custody was conducting a community hearing at the Settlement in Redfern to discuss, in part, particular aspects of policing practices.

The meeting noted that as a result of the raid no person was charged with a serious offence. All persons had, by the time of the meeting, been released on bail with the exception of one person who had been detained for unpaid fines and was then in the process of 'cutting out' that fine. The meeting also noted that there was a similarity in police tactics between the Redfern raid and the earlier raid in April 1989 which had resulted in the death of David Gundy.

The meeting called on the Royal Commission into Aboriginal Deaths in Custody to investigate the raid as part of its investigation into the underlying issues in relation to the death of David Gundy. The meeting also called for a review of the system of issuing search warrants to ensure greater accountability, in particular that search warrants be issued by a District Court or Supreme Court Judge rather than a Justice of the Peace at the Local Court.

#### 4.6 Justifying the Raid

Initial justification for the raid came from the Sydney District Commander, Executive Chief Superintendent Peate. Peate reportedly rejected claims that the raid was a failure (*Sydney Morning Herald*, 9/2/90, p.2). He was reported as saying that the raid had been conducted in response to requests from the community over concerns about the growing incidence of crime and heroin abuse in the area during the previous three months. On this point it is worth considering that from the available evidence it appears that the raid netted one charge for the possession of an implement for the use of drugs, arising from the alleged confiscation of two 'bongs'.

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Peate was also reported as saying that

*our normal surveillance activities can't operate in a place like the black community. You stand out like you know what. Where do you survey the activity of people when they are all the one breed? So you have then got to look at alternative methods and that was what today was all about. (Sydney Morning Herald, 9/2/90, p.2)*

The above statement by Peate goes to the heart of why the February 8 raid on Redfern was fundamentally racist. The raid was a particular police tactic specifically designed for 'one breed', a raid designed for a situation where 'normal surveillance activities' cannot operate. In other words, particular police activities are justified on the basis of a racial category<sup>8</sup>. There is ample evidence to demonstrate that those activities involved an extraordinary use of police force. That force was not simply about gaining entry into eight residences within 'the block' in Redfern. The policing operation was about (as Peate probably unwittingly demonstrates) policing Redfern's black community. Indeed as two journalists noted in the days following the raid, it was hard to imagine such a raid occurring anywhere else in Sydney (Bernard Lagan, *Sydney Morning Herald*, 10/2/90, p.32; Adele Horin, *Sydney Morning Herald*, 13/2/90, p.14). The point of course is that such raids on a **community** do not occur elsewhere in Sydney.

The most detailed justification for the raid came from the Minister for Police and Emergency Services, Mr Ted Pickering. The statement was made in response to a question in the NSW Legislative Council and was presented to Council on 22 February 1990. The Minister's response is based on a report<sup>9</sup> of the raid from Chief Inspector Allan Peek, the Patrol Commander of Redfern, to Executive Chief Superintendent Alf Peate. The Minister quoted Peek as stating,

*The main reason for the operation was the despairing cry for help from the Aboriginal community. The Aboriginal community expressed a grave concern with the upsurge of criminal activity,*

- <sup>8</sup> In addition the reference to Aboriginal people as 'one breed' evokes ideas of a racial group who are fundamentally different and dangerous, and, therefore, requiring extreme forms of control.
- <sup>9</sup> Letters were written on 23 February 1990, 20 April 1990 and 4 May 1990 by the Human Rights and Equal Opportunity Commission to the Police Commissioner and subsequently to the Police Minister for a copy of the report. As yet the letters have not even been acknowledged and no response has been received.

*which they feel is directly attributable to the increase in the usage of hard drugs.*

The Minister went on to state that the operation 'was mounted to protect the law-abiding citizens of that area who are, of course, the vast majority'. The implication of this statement was that those who criticised the raid were somehow not part of the 'law-abiding' majority in the Aboriginal community. Indeed this point was specifically raised later in the Minister's speech where he juxtaposed the views of those who complained about the police raid to

*the perspective of those who could no longer tolerate what was happening in their neighbourhood and who demanded that police take immediate action. These people will not be complaining about the police raids as damaging to relations between the Aboriginal community and police.*

Such a simple polarisation of views of course deflects criticism of the nature of the police operation. It is possible that members of the Aboriginal community were both concerned about the use of drugs in the community and critical of police operations. Indeed a perusal of the transcript from the community hearing in Redfern held by the Royal Commission Into Aboriginal Deaths in Custody on 6 February 1990 shows that many people were critical of police tactics and the use of drugs in the community<sup>10</sup>. It also appears that the Community Consultative Committee did request that police take action against street drug-sellers (*Sydney Morning Herald*, 10/2/90, p.32). It is open to question, however, whether such a raid would have any impact on street drug-sellers, particularly given that there is no evidence to suggest that 'drug-sellers' were in fact arrested.

A number of other issues was raised by the Minister in his speech to Parliament. Accordingly to the Minister an internal police report showed that 'crime rates generally doubled in the area' during the December 1989 quarter and that there 'were big increases in particular in the categories of house-breaking, assault, stealing, malicious damage and car stealing'. Without the public release of this report it is impossible to accurately assess the validity of these claims. For instance, were the increases in car theft or other categories of reported crime any greater in Redfern than other areas

<sup>10</sup> In addition, one can question how seriously senior police in the region took the community's complaints about police tactics. That is, while it was possible for the police to use the community's concern in relation to drug abuse to justify the raid, was there any similar large scale police operation mounted to investigate the community's concern in relation to allegations of misconduct by police?

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of Sydney? Was the increase in the December quarter of 1989 in any way abnormal compared to increases in other December quarters? More importantly the crucial question which is not directly addressed is whether the particular raid of 8 February 1990 did, or was likely to, have any effect on those increases in particular criminal activities.

According to the Mininter, quoting the internal police report, police intelligence had advised that

*a relatively small number of persons was responsible for a relatively large proportion of crime in this neighbourhood. It was for this reason that police decided to target a number of individual premises which were believed to be used for a range of criminal activities.*

Given the evidence already presented in relation to the number of arrests, the type of arrests, the reasons given for the search warrants and the results of the execution of those warrants, and the statements made by individuals whose houses were raided, it is difficult to see how the raid could be justified in terms of the accuracy of police intelligence.

The Minister's speech attempts to specifically reply to the question, 'Was the raid an over-response in terms of numbers of officers present and in terms of the results of the raid?' The Minister argues that only 70 officers took part in the raid while the remaining 65 'were there purely in a back-up capacity'. The point is somewhat semantic. While 70 officers may have taken part in the actual raiding of premises, the remaining 65 were certainly an integral part of the police operation. There is no dispute that 135 officers were part of the police *Operation Sue*, nor that the bulk of those officers, with the exception of a few who remained at the Sydney Police Centre to co-ordinate the operation, were located in the area on the morning of 8 February. According to the report from Inspector Peek,

*Experience indicates that with a sufficient number of units the likelihood of injuries to police, citizens and suspects is drastically reduced. This strategy is considered to be appropriate and is supported by the fact that no physical injury was sustained by any person.*

A number of points can be raised in relation to this justification for police numbers. Clearly saturation policing practices are, in the short term, likely to decrease the likelihood of resistance to particular police operations. In the long term, saturation policing is likely to increase the breakdown in relations between a community

and the police as it reconfirms perceptions of police harassment (Cunneen, Findlay, Lynch and Tupper, 1989). Secondly, there is no discussion of the particular police units which were utilised, in particular the TRG. The use of such units is a clear indication that the police were **expecting** some level of resistance from the Aboriginal community to the policing operation. This point is important because it would appear to contradict the earlier claim that the operation was simply mounted as a response to requests from the Aboriginal community. If general community support could have been expected, then it is difficult to see why such large numbers of police were utilised or indeed why the operation was mounted at 4 o'clock in the morning.

The Minister attempts to sidestep the issue of whether the operation met the objectives or desired outcomes for police, by stating that 'there is little sense in relating the quantity of allegedly stolen goods recovered or the numbers of arrests to the strength of the police contingent'. He ignores the issue of whether the raid was 'compromised' because, according to the Minister, no drugs were found during the searches. Yet clearly objectives and outcomes need to be measured by some criteria. If, in this particular raid, they are not to be measured by arrests, goods recovered or drugs seized, what is to be regarded as a suitable performance indicator for the deployment of such a large scale policing operation?

There are several final points in relation to evaluating the alleged 'success' of the operation. Firstly police intelligence reports would appear to have had limited accuracy when, in the five cases where suspects were named in the grounds for application for the search warrants, none of the suspects were detained. Secondly a number of search warrants related to both drugs and firearms which were believed to have been inside a number of premises. These items were not located. Thirdly it is unlikely that the operation will have any major or long term effect on the types of criminal activities which the Minister had listed as having increased in the area (car theft, assaults, stealing and break and enters) both because of the nature of the operation and because particular suspects were not located. The most tangible result of the raid was the further deterioration in Aboriginal/police relations in the area.

A number of other specific points were raised by the Minister in his speech to Parliament. In relation to the use of shotguns during the raid, the Minister stated that he questioned the Police Commissioner about this matter and was advised 'that a direction was given that shotguns **should not** be used in the raid' [emphasis added]. Of course this statement does not address the question as to whether shotguns were used in the raid. The Minister also rejected the claim

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that there had been some arrangements made between the police and the media in relation to covering the raid.

The Minister in his speech to Parliament emphasised the role of community policing in Redfern including the Community Consultative Committee, the Aboriginal/police liaison officers, and the various duties undertaken by officers at Redfern Police Station in relation to outings with Aboriginal youth in the area. It is interesting to note, however, that the two Aboriginal/police liaison officers in Redfern publicly complained of not being informed about the raid and threatened to resign as a result (*Sydney Morning Herald*, 9/2/90, p.2, *ABC Radio News*, 9/2/90). More generally though, any community policing initiatives in Redfern do not provide an explanation or a justification for the raid of 8 February. It has been noted elsewhere (Cunneen, 1990) that community policing and the use of para-military style police operations should not be seen as contradictory. Indeed in police thinking the two may be seen as complementary with community policing providing intelligence for particular operations. At an ideological level the two forms of policing are also constructed by police authorities in a symbiotic relationship where aspects of community policing function in such a way as to legitimise para-military operations. This ideological connection between community policing and para-military operations is precisely what occurred in relation to the Redfern raid. It was argued that the operation was undertaken as a response to the Redfern Community Consultative Committee. In addition in the Minister's speech it was argued that those who opposed the raid were outside the 'law-abiding community'. Thus it was made to appear that a large scale police operation utilising specialist tactical police squads and other police from outside the area (which is the very antithesis of community policing) was conducted as a result of community policing techniques.

### **4.7 Tactical Response Group (TRG)**

It is clear that the TRG had a leading role in conducting the raid. According to reports the TRG led the raids on individual houses. It is unknown exactly how many TRG officers were involved in the overall operation, but one report put the number at 18 (*Sydney Morning Herald*, 9/2/90, p.2). The TRG is a relatively new phenomenon in NSW policing and it is important to understand the background to the group's establishment.

The TRG was formed in 1982 allegedly as a response to riots at the Bathurst Motorcycle Races (see Cunneen, Findlay, Lynch and Tupper, 1989). Their role as a specialist riot control group has become institutionalised within the State's policing apparatus. The group has its own executive, administrative, operational and training

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components. Most importantly it has grown in size and increased its operational duties during the 1980s. Wardlaw (1986) estimated that the TRG increased its 'tasking' rating<sup>11</sup> by tenfold during its first year of operation. At its inception, it was envisaged by (then) Assistant Commissioner Ross that the TRG would be used in

*the policing of Corrective Services institutions during industrial disputes; acting as a response team to large crowd control situations, riots, demonstrations, disasters, saturation patrols and other serious matters; supportive element to SWOS in an emergency hostage/siege situation, including the containment and maintenance of controlled perimeters; and such areas as may be deemed advisable in view of their specialised training.* (cited in Cunneen, 1985, p.74).

A summary of equipment available to the TRG can be found in Cunneen (1985, pp.75-76). Equipment and training includes shotguns.

With regionalisation of the NSW police, the TRG is now divided into groups of 25 personnel for the four regions. South Region TRG (which covers Redfern) contains one senior sergeant, six sergeants and 18 constables. These personnel form the permanent operational TRG. There is however an unknown number of other general duties officers in each region who are trained TRG officers and are on-call as situations arise.

TRG personnel have been used on many occasions in the policing of rural and urban Aboriginal communities, including Bourke, Brewarrina, Walgett, Dubbo, Wilcannia, Cobar and Redfern. In Bourke the TRG were flown into the town to police a demonstration by Aboriginal people. The demonstration was itself concerned with perceived discrimination by the criminal justice system against Aboriginal people (Cunneen and Robb, 1987). In Brewarrina the TRG was flown in to conduct street patrols after an Aboriginal man, Lloyd Boney, was found hanged in the police cells. The TRG has visited other country towns (such as Dubbo) as a result of complaints about the breakdown in law and order. Such complaints had been specifically directed against Aboriginal people (Cunneen, 1989). The information provided in previous sections of this report indicates that the TRG has been involved in a number of controversial raids involving Aboriginal people in Redfern.

11 Tasking refers to the actual number of tasks performed. Some of these tasks will involve routine duties, while others will involve specific, particular duties and operations.

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The use of the TRG in the policing of Aboriginal communities has, from the outset, been the subject of controversy. Shortly after the TRG was established, the NSW Police Association requested that the Police Department form TRG units in Moree and other north-western towns. Moree was itself the site of intense conflict between Aborigines and police during the early 1980s. In rejecting the Association's request, Assistant Commissioner Graham, on behalf of the Police Department, stated

*The attendance of Tactical Response Group personnel at Moree or other country centres where racial problems exist could lead to feelings of provocation on the part of some people and lead to unnecessary confrontations. (NSW Police News, Vol.64, No.4, October 1983)*

By the mid-eighties police thinking had changed to the extent that it became acceptable to fly in TRG police specifically to control Aboriginal people in rural areas. We have also witnessed their increasing use in Redfern during the late 1980s. The change indicated an important reversal in policing policy which now legitimised the reliance on pro-active, paramilitary police squads to maintain order – even in the face of overseas evidence that such policing methods could polarise resistance to state intervention (Scarman, 1981).

The TRG was established as a fast response police tactical unit capable of being deployed anywhere in the State at short notice. It was noted after their establishment that such groups, although originally established to deal with a specific 'threat', soon develop at an operational level to incorporate many of the more usual functions of general duties policing (Cunneen, Findlay, Lynch and Tupper, 1989, p.120). In addition the structure of the TRG seems designed to ensure that a sense of independence and elitism develops. There is the risk of alienation from the concerns of mainstream general duties policing.

Perhaps most importantly is the implied admission with the establishment and use of the TRG, that 'relations between the normal civil policing agencies and certain sections of the public have deteriorated to such an extent so as to necessitate a paramilitary response' (Cunneen, Findlay, Lynch and Tupper, 1989, p.121). It has been noted that the very nature of the TRG means that,

*It is not required to construct localised relationships or networks but to be ready to respond to situations judged in advance to be problematic and as likely to warrant special tactics and usually force... Such squads are also equipped with*



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*the weaponry and technology which permits, and perhaps even encourages, them to [resort to force]. (Hogg, 1984, p.50)*

Of fundamental importance to the questions of Aboriginal/police relations and notions of community policing is the fact that the TRG is the very antithesis of any notion of a relationship between police and community. There is a predetermined absence of any relationship to a local community. One consequence of tactical response policing is that there is no requirement to consider the long term effects of particular methods of control. In addition, because of the nature and duties of the squad, the style of intervention is likely to revolve around the routine use of force. The consequence of such policing methods is further antagonism, alienation and resistance from those groups the subject of control.

The TRG was formed along similar lines to the Special Patrol Group (SPG) in London. Lord Scarman (1981) in his report on the Brixton disorders paid particular attention to the use of the SPG and was critical of the use of pro-active specialist squads in local communities. Scarman argued that such tactics challenged the authority and effectiveness of local police, and jeopardised accountability, consultation and community policing strategies. This type of intervention was particularly dangerous where there were local racial tensions. However in the decade since Scarman wrote his report, the trend has been to institutionalise the role of tactical response police. As other research on the TRG has concluded,

*The style of tactical response policing moves from reactive or 'fire-brigade' policing to pro-active, pre-emptive policing. Tactical response policing has developed as the principal police response to social 'menaces' so diverse as vandalism, industrial disputation, racial unrest and so on. (Cunneen, Findlay, Lynch and Tupper, 1989, p.123)*

The use of the TRG in Aboriginal communities has had the effect of galvanising Aboriginal opposition to particular forms of policing and of increasing feelings of harassment. Goodall (1990) has outlined the effects of the use of the TRG in Brewarrina. The effect in Bourke has also been to reinforce a perception of excessive policing (Cunneen and Robb, 1987, p.186). Perhaps the most telling example of the way such police methods can be absorbed into a consciousness of police harassment was the case of the 67 year old Aboriginal woman in Redfern referred to earlier in this report. She was unaware of the correct title of the TRG. She knew enough however to be able to refer to the police officers as the 'tactical group of police'. In the same statement she states that she

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challenged the police while they were searching her house, and after they had broken in the front door, as behaving like 'Gestapos'.

The NSW Ombudsman's Office has been conducting an inquiry into the TRG in relation to four raids, other than the Redfern raid, where there have been allegations of misconduct by TRG officers. One raid on a family of four in Mascot involved the execution of a search warrant at approximately 4am. The male occupant was held at gunpoint and allegedly assaulted. The officers finally realised they had the wrong person and apologised (*Sydney Morning Herald*, 16/2/90, p.1). The raid occurred less than two weeks after the Redfern raid. While the results of the Ombudsman's inquiry have not yet been determined, the Ombudsman has acknowledged that there 'has been considerable public anxiety' over the use of force by the TRG (NSW Office of the Ombudsman, 1990). It is expected that the Ombudsman's Office will recommend a departmental review of TRG operational procedures, control and accountability.

The Law Society of NSW has also called for an urgent Government inquiry into a number of bungled raids including those conducted by the TRG (*Sydney Morning Herald*, 20/2/90, p.7).

### **4.8 New South Wales Office of the Ombudsman**

The NSW Office of the Ombudsman is currently conducting an investigation into the police raid in Redfern. Papers were forwarded to the Office from the Redfern ALS. Of concern to the ALS, and residents the subject of the raid, were the military nature of the operation and the view that the operation was calculated to intimidate the Aboriginal residents of Redfern collectively. In addition the process by which the search warrants were issued was raised as an issue of concern:

The Ombudsman's investigation is being conducted under Section 16 of the Ombudsman's Act and will examine the administrative decision-making procedures involved in the raid. As such the investigation will not be referred to the Police Department's Internal Affairs directly for investigation. By conducting the investigation in such a manner the normal 180 day turn around period within Internal Affairs will be bypassed, and as such the conclusion to the investigation should be shorter than the usual period. The conduct to be investigated by the Office includes the assessment of the information and intelligence on which the operation was based; the planning of the operation; the notification of the operation to the media; the conduct of the police officers searching the premises; and the contact between police and the media following the operation.

#### 4.9 Royal Commission Into Aboriginal Deaths in Custody

Two days prior to the raid on Redfern, the Royal Commission into Aboriginal Deaths in Custody held a community hearing at the Settlement in Redfern. The purpose of the hearing was to examine the use of the Intoxicated Persons Act in relation to Aboriginal people. The hearing was held as part of the examination of underlying issues arising out of the death of Paul Kearney.

In relation to the later raid, probably the most significant evidence presented was an admission by Chief Inspector Peek that the TNT Towers, adjacent to Redfern railway station, were used by police as an observation point. Aboriginal people in Redfern had been claiming since mid-1989 that the police had been using the top of the TNT Towers as a point from which to 'spy' through binoculars on the community.

According to Peek,

*The TNT Towers have been utilised as a vantage spot for streets within the Redfern patrol... It's a vantage point that can act as a deterrent against crime... As far as spying on the community, it's not spying on the community, the way I see it. We're not spying on the community for some covert action. It's mainly used for operations in relation to crime that has been committed within the patrol [area].*

As already indicated, the community meeting held in Redfern immediately following the raid called on the Royal Commission to investigate the raid as part of its inquiry into Aboriginal/police relations. Commissioner Wootten responded on 9 February 1990 by announcing a hearing for 15 February 1990 to hear submissions as to how the Royal Commission should conduct its inquiry into Aboriginal/police relations including Redfern. In his media release Commissioner Wootten noted 'the widespread public concern about the circumstances and methods of the raid... including the parallels drawn with the operation which led to the death in custody of David Gundy'.

On 15 February 1990 Commissioner Wootten heard submissions from Counsel representing the NSW Government, the NSW Police Association, NAILSS and Counsel assisting the Commission. Counsel for the NSW Government and the NSW Police Association challenged the Royal Commission's power to investigate Aboriginal/police relations in Redfern as being outside its terms of reference. Paul Coe, appearing for NAILSS, argued that the Royal Commission could investigate aspects of the raid, particularly 'risk

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factors' which affect Aboriginal/police relations. Risk factors in relation to the raid were 'the use of warrants to effect an entry to premises in the early hours of the morning, the use of armed police to carry out that entry and the numbers of police that are used' (*Transcripts of Proceedings, Royal Commission into Aboriginal Deaths in Custody, Sydney, 15/2/90, p.32*).

In his later decision on the consideration of Aboriginal/police relations, Commissioner Wootten did not specifically mention the Redfern raid. He proposed, however, to convene a structured conference session to hear submissions on the subject of Aboriginal/police relations. No doubt aspects of the raid will be raised by interested parties.

#### **4.10 National Aboriginal and Islander Legal Services Secretariat (NAILSS)**

NAILSS is initiating an action in the NSW Supreme Court in relation to the issue of the warrants and the raid. An earlier ruling in the NSW Supreme Court (*Patten v JP Redfern; Wells & Keen, [1986] 22 A Crim R 94*) held that a Justice in issuing a search warrant cannot simply rubber-stamp the belief of a police officer seeking a warrant. The Justice must form an independent view as to the adequacy of the grounds for the issue of a warrant. In the above case the plaintiff was an Aboriginal person whose residence in Redfern was the subject of a search warrant.

In addition NAILSS has drawn out the links between the Redfern raid and the police killing of David Gundy, in particular the extreme use of force in situations which could have been conducted in 'more peaceable and less potentially lethal circumstances'. NAILSS has argued before the Royal Commission into Aboriginal Deaths in Custody,

*since the Coroner's exculpation of the police in the Gundy inquest it is open for the Commissioner to draw the inference that the police are interpreting the Coroner's ruling and recommendations to the Attorney General as an implicit carte blanche on violent raids on Aboriginal households.*

## 5. CONCLUSION AND RECOMMENDATIONS

**1. On the evidence available, it can be concluded that overpolicing, including the excessive use of force, occurs in the Redfern Aboriginal community.**

There is a history of complaints relating to police practices in Redfern which dates back at least to the original establishment of the ALS in 1970. Many of these complaints relate to both discriminatory policing practices and the excessive use of force by police. Redfern has often been presented by the NSW Police Association and the media as potentially a 'no-go' area<sup>12</sup>. There is however evidence of over-policing rather than under-policing, both in the level of intervention (the number of police used in particular situations, the extensive use of foot and vehicle patrols) and in the nature of the intervention (the use of particular squads such as the TRG).

Two incidents in 1989, relating to the death of David Gundy and the police operation in Alexandria Park, were of particular concern to the Aboriginal community. These two incidents involved the use of firearms by police in operations involving the execution of warrants. In the case of David Gundy an innocent person was killed. In the Alexandria Park incident there was an unacceptably high risk of innocent persons being injured or killed.

**2. It would be appropriate for the National Inquiry into Racist Violence to seek a departmental review of the role, status and authority of Aboriginal-Police Liaison Officers.**

There is evidence in this report that Aboriginal-Police Liaison Officers in Redfern had their advice ignored (in the Alexandria Park incident) and were not informed of major policing operations involving the Redfern Aboriginal community (as in the raid of 8 February 1990). Clearly the role of the liaison officers needs careful evaluation. It would appear that particular police operations and practices constantly undermine the positive functions which such positions could fulfill. Rather than serving to facilitate any improvement in Aboriginal-police relations, the undermining of the functions of the liaison officers serves to discredit the authority of

<sup>12</sup> See, for instance, the *Sydney Morning Herald*, 24/5/89, p.2; *Sydney Morning Herald*, 25/5/89, p.14; *Daily Mirror*, 25/5/89, p.8; *NSW Police News*, September 1989, p.16.

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appropriate therefore to consider these policing practices as constituting institutional racism where the perceived difference of the Aboriginal community was used to legitimise an exceptional use of State force.

The use of force in the policing operation thus constituted an act of racist violence. The violence which occurred involved physical violence (alleged assaults on some individuals), psychological violence (many witnesses stated they were terrified) and violence to property (during forced entry into houses and during the conduct of searches). In addition the act of racist violence can be considered as an act against the Redfern Aboriginal community, as well as those particular individuals who were affected. The policing operation was designed in relation to the community and the effects of the raid were felt by the community, as demonstrated by the attendance at the community meeting following the raid.

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