

AUSTRALIA

Police Brutality

Against Queensland Aborigines

In the early hours of 22 March 1997 an altercation between two Aborigines was being broken up by other Aborigines when police and private security guards arrived at the scene, followed by United States military police officers. They arrested seven Aborigines, some of whom were kicked and punched by police officers. The event, which took place in Ipswich, Queensland, was recorded by a security video camera. The video recording, which has been viewed by Amnesty International, supports claims by eye-witnesses and victims that police used excessive force during at least three of the arrests.

Ipswich police officers involved in the arrests appeared to be indifferent to the fact that they were watched by a crowd of between 20 and 30 bystanders and that the incident was being recorded. Eye-witnesses alleged that police and security officers dismissed requests by bystanders to call an ambulance for an unconscious 23-year-old man who had convulsions. A police officer had flung him violently to the ground, handcuffed him and left him lying on the footpath.

Amnesty International is concerned that the force used by police in at least three of the arrests was excessive, constituting ill-treatment, and that the video recording appears to support allegations of lack of proper care of an injured detainee. The organization is further concerned that this was not an isolated event, as it has received reports of numerous similar incidents from other parts of Australia during recent years, often involving Aborigines. These concerns are heightened by the response to the incident of the Queensland Police Commissioner who was quoted as saying that "these people were [...] arrested strictly in accordance" with police training.

Amnesty International urges the Queensland authorities to ensure that the inquiry into the event which the Criminal Justice Commission has announced is prompt, thorough, impartial and fully independent, and that anyone found responsible for misconduct, excessive use of force, or any other cruel, inhuman or degrading treatment be brought to justice. Good faith efforts being made by many police officers and Aborigines to improve their strained relationship should not be undermined by any deficiencies in the investigation or the government's failure to act on the inquiry's recommendations.

The incident

At 2:26am on Saturday, 22 March 1997, an altercation between two young Aborigines was captured on video by a time-coded security camera overlooking a busy road

intersection at a shopping mall in the middle of the southern Queensland town of Ipswich, near Brisbane. By 2:28am the participants had been separated by other Aborigines, and several people were beginning to leave the scene when security guards, reportedly employed by the city council, and a police officer arrived. They were quickly joined by several more police officers, and by two uniformed military police officers of the United States First Marine Airwing who were in Queensland during joint exercises with Australian defence forces. According to the US Embassy in Canberra, US military police had been on patrol that night at the request of the Ipswich police. Media reports state that local police and city council representatives had previously held a meeting with US military police officers about the potential for conflict between Aborigines and US military personnel. Queensland police later claimed that numerous incidents had occurred during the past few weeks involving Aborigines and United States servicemen. Referring to these incidents, the Queensland Police Commissioner defended his officers' conduct and said that "[t]hey were set upon."¹ The video recording does not appear to support this assessment.

From about 2:28am the video shows what appears to be a heated discussion between Aborigines, security guards and police. One police officer is shown on the video elbowing a woman in the face and pushing a young man. Within a minute of his arrival this police officer rushed to Lewin Smith, a 23-year-old young man who was talking to bystanders and a security guard, grabbed and held him around his neck, and violently shook him off balance. Lewin Smith was later quoted by a newspaper as saying:

"All I know was they grabbed me round the neck and threw me into the ground and I blanked out. I do remember that [the police officer] still had his hands around my neck when I went down."²

Lack of care

According to eye-witnesses, Lewin Smith was handcuffed face down on the footpath where he remained motionless for several minutes. Bystanders noted that he did not respond to questions and then had convulsions. Witnesses told Amnesty International that a woman unsuccessfully tried to rouse him and that he had fluid running from his mouth. When bystanders urged police and security officers to call an ambulance they were allegedly told to "shut up". An ambulance finally arrived at 2:45am, 15 minutes after Lewin Smith was flung to the ground.

¹ "Anatomy of a brawl", *Courier Mail*, 8 April 1997.

² *Courier Mail*, 8 April 1997.

In the meantime, no attempt by police officers or security guards to assess his condition can be seen on the video. The video appears to show one officer briefly speaking with a woman who sat on the footpath attending to Lewin Smith until the arrival of the ambulance. While in hospital Lewin Smith was charged with using insulting language by police officers. According to the Aboriginal Legal Service, he has since been examined for health problems resulting from his treatment during arrest and has lodged a formal complaint with the Queensland Criminal Justice Commission (CJC)³.

Further arrests and use of excessive force

According to the police, a further six Aborigines, including a woman, were arrested and charged with a variety of street offences as a result of the incident. The charges they face include using insulting or obscene language, disorderly behaviour, obstructing police, resisting arrest and assaulting a police officer. One person was taken into custody on suspicion of public drunkenness, which in Queensland is a criminal offence.

A woman who in the video appeared to be expressing concern about Lewin Smith's treatment was grabbed by officers who tried to drag her away from where he was lying on the footpath. She struggled and managed to get free. As she moved away, two police officers grabbed her from behind and a third officer violently wrestled her to the ground. It appears from the video that he was the same officer who had flung Lewin Smith to the ground. According to eye-witnesses, at least one of the officers knelt or sat on the woman for several minutes. The Ipswich Aboriginal Legal Service told Amnesty International that she suffered numerous bruises on various parts of her body as a result of her treatment.

Another police officer arrived and moved past a man who stood arguing with US military police. The video shows the man briefly talking to the police officer who then walked over to where Lewin Smith was lying on the ground. The man kept addressing the police officer who suddenly rushed at him, grabbed his arms, kicked him and pushed him violently backwards against a shop window. Several other police and military officers moved towards them and helped to hold the man against the window. According to eye-witnesses the man was kicked and beaten.

A bystander who tried to intervene and push a police officer away was grabbed

³ The CJC was established under the *Criminal Justice Act 1989* and has broad statutory responsibility to monitor the operation of the criminal justice system, including alleged misconduct by members of the police or corrective services.

and then held by several officers. The video footage appears to show him being punched in the face with two hands by a police officer before being wrestled to the ground and restrained. While he was held on the ground by a military police officer and at least one police officer, another policeman kicked him at least once. Another man who had also tried to intervene was grabbed around the head from behind by an officer, pulled backwards and flung to the ground. He was also arrested.

A few minutes later the first persons arrested were locked into a police van. At 2:36am the video camera filmed a young man talking with a police officer at the rear of the police van. The man, Sascha Blake, later said he went to the van with the intention of asking an arrested relative for a telephone number in order to alert his father. The video recording shows how the police officer talked to him and pushed him away. As he walked away Sascha Blake apparently made a comment, upon which the police officer ran towards him and grabbed him from behind. Four other police officers and two US military police came to assist the officer, wrestling Sascha Blake to the ground and kneeling on him to restrain him. The video recording clearly shows one police officer punching him, apparently in the head, while he was held on the ground by four other officers.

Police response to public debate on the video

Following media publication of excerpts and photographs taken from the video, the Queensland Police Commissioner issued a media release explaining that it would be inappropriate for him to make further comments in relation to the incident because numerous charges arising from it had come before the courts, and because the Criminal Justice Commission was expected to conduct an investigation. He did, however, state that in Ipswich, certain parts of Brisbane and Fortitude Valley⁴ police were well aware that their actions and the execution of their duties are captured on video tape. The Commissioner also stressed the importance for all Queenslanders to understand

*"that the law in this State is administered with equality, but that no group of people will be allowed to intimidate, harass or provoke other elements of the community and cause serious disruption by breaking the law."*⁵

⁴ The place names refer to incidents described below in "The Ipswich incident in context".

⁵ "Commissioner's Response to 'Ipswich Incident'", Media Release, Queensland Police Service, 7 April 1997.

Background

Amnesty International has received a number of reports and testimonies which suggest that ill-treatment of suspects by Australian police officers is not uncommon. More often than not, the alleged victims were juveniles, young Aboriginal men, or members of other minority groups. While these reports do not support allegations of a widespread use of excessive force among Australian police services, Amnesty International research indicates that there are individual police officers from particular police stations who are more likely than others to use excessive force during arrests. On the video of the Ipswich incident three individual police officers, out of at least seven who were present, can be identified as using excessive force during the arrests.

Recent studies support the view that typical charges laid against Aborigines include 'using offensive language', 'resisting arrest' and 'assaulting a police officer'.⁶ Actions resulting in these charges often occur in situations initiated by police which are interpreted as harassment or provocation. Reports received by Amnesty International suggest that the victims of alleged police assaults were often charged with a combination of these charges. Although in many cases some of these charges were later dismissed for lack of evidence, the victim may be under pressure not to lodge or further pursue a formal complaint or appear as a witness against a police officer in a court or tribunal.

Patterns of assault complaints against police officers

In March 1997 an investigation of formal complaints of assault lodged against Queensland police officers, based on cases where there was some independent evidence, or acknowledgement by police that an incident had occurred, found that 11 per cent of all complainants involved were Aborigines, although they account for only 2.4 per cent of the Queensland population. According to the investigation report, this figure reflects the over-representation of Aborigines and Torres Strait Islander people in the criminal justice system generally.⁷ In almost half of all incidents investigated, police officers were alleged to have punched or kicked the complainant. Due to the difficulty of proving allegations to the required legal standard, few of these complaints led to recommendations for criminal

⁶ Chris Cunneen and David McDonald, *Keeping Aboriginal and Torres Strait Islander People Out of Custody*, Canberra, ATSIC 1997, p. 114-116; *Indigenous Deaths in Custody, 1989-1996*, a report prepared by the Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner for the Aboriginal and Torres Strait Islander Commission, Canberra, ATSIC, October 1997, p. 36.

⁷ Most figures quoted here refer only to incidents involving police officers who were on duty

charges or disciplinary action, and even fewer of these led to prosecution or disciplinary tribunals.

The study appears to lend some support to the allegation that police use of excessive force often occurs in the context of alleged street offences, especially late on weekend evenings. A quarter of the incidents reviewed resulted in arrests for minor offences, such as 'using offensive language', 'drunkenness' or 'disorderly conduct.'

In more than half of the cases there was no evidence that police were provoked, or that provocation extended beyond the use of disrespectful language. However, there was evidence in about a fifth of cases investigated that police had been physically provoked by the complainant, for example by punching or kicking.

at the time. Cf. Criminal Justice Commission (CJC), *Reducing Police-Civilian Conflict: An Analysis of Assault Complaints Against Queensland Police*, Brisbane, March 1997, 28.

In order to reduce the number of assault complaints against the police, the study recommended improved training and supervision practices for police officers, procedures for identifying officers who are the subject of significant numbers of complaints, and the implementation of a comprehensive policy on the use of force.⁸ The study refers to a recent Queensland Police Service investigation into the use of force which suggests that officers with more than five years service have not been trained under new police guidelines pertaining to the use of force.⁹

The Ipswich incident in context

Amnesty International considers that the Ipswich incident indicates a continuing disregard by some police officers of directives of police commissioners and recommendations by judicial inquiries, which are aimed at preventing unnecessary arrest and the escalation of police intervention in cases where the alleged original offence is of a petty nature. Among the factors contributing to the problem is the apparent reluctance among many Queensland police officers to use their discretion under operational guidelines to avoid arrests for minor offences, and the lack of clear guidance about the appropriate use of force in the Queensland Police Service *Operational Procedures Manual*.¹⁰

While relations between many Aboriginal communities and the Queensland Police Service are considered to be improving, there have been a number of setbacks in recent years. On 7 November 1993, Daniel Yock, a 16-year-old Aboriginal dancer, was found dead in the back of a police van in central Brisbane. He had been arrested for disorderly conduct and left in the van for up to 30 minutes with his hands handcuffed behind his back, lying face down on the floor. The controversial circumstances of his arrest and subsequent death led to serious clashes between Aboriginal people and local police.

In May 1994, six police officers left their patrolling district without authorization to take three Aboriginal boys, aged 12 to 14, from Fortitude Valley, central Brisbane, to an isolated industrial wasteland some 14 kilometres outside the city to "reflect on their

⁸ Ibid., p. 53, 57-64.

⁹ Queensland Police Service, *Project Lighthouse: Final Report by The Commissioner's Inspectorate on matters pertaining to the use of force*, Brisbane, Commissioner's Inspectorate, 1996, p.106. Cf. CJC, op. cit., p. 64.

¹⁰ Operational Procedures Manual, s. 3.5.9 and 5.6.17. Cf. CJC, op. cit., p.59, 71.

misdemeanours". They had apprehended the boys in a shopping mall at night but did not charge them or take them to a police station or to their parents. The boys told a Criminal Justice Commission inquiry that, after arriving at a desolate riverbank at about 3am, the police officers made threatening comments suggesting torture and drowning and then abandoned them to find their way home in the dark. In court, in February 1996, the six police officers faced charges of "unlawful deprivation of personal liberty". However, a magistrate declined to commit the police officers for trial, ruling that there was insufficient evidence that the children had been transported by police against their will. All six officers reportedly returned to normal duties with disciplinary sanctions suspended, pending periods of 'good behaviour'.

Amnesty International recommendations

On 10 April 1997, the Queensland Criminal Justice Commission announced that it would hold an inquiry into the Ipswich incident. The inquiry's main objective is to establish whether any criminal or disciplinary charges should be laid against anyone involved and whether police procedures should be reviewed. The United States authorities have also announced a separate inquiry into the conduct of their military police officers during the incident.¹¹

Amnesty International urges the Queensland authorities to ensure that the Criminal Justice Commission is able to begin immediately its investigations into the entire incident on the basis of the broadest possible terms of reference.

- * The inquiry should be thorough, impartial and fully independent, and sufficient resources should be made available to ensure that it can fulfil all its functions promptly and adequately.
- * All eye-witnesses should be encouraged to come forward, and any complaints about intimidation of alleged victims or witnesses should be taken seriously and be made part of the investigation.
- * Consideration should be given to witnesses who might fear reprisals if called upon to speak in a public hearing.

¹¹ After the screening of excerpts from the video recording on Australian television, calls were made to the Australian Government to request that the US military police officers allegedly involved in ill-treatment during the Ipswich incident be arrested and handed over to Australian jurisdiction. According to article 8.(3)(b) of the Status of Forces Agreement, signed in 1963 between Australia and the United States and reportedly reaffirmed before the March 1997 exercises, the Australian Government exercises jurisdiction over any criminal offences found to have been perpetrated by US military personnel during military exercises on Australian territory.

- * The inquiry's findings should be published promptly - unless any criminal proceedings would be affected.
- * All police officers involved should be subject to a separate disciplinary investigation.
- * Those found responsible for any misconduct, arbitrary violence or other cruel or inhuman treatment should be brought to justice.
- * The Queensland Government should consider initiating a separate inquiry into allegations of similar incidents in other parts of Queensland.
- * The Queensland Police Service should consider the findings and recommendations of the Criminal Justice Commission report on assault complaints against Queensland police and should make them available to all police officers likely to be involved in situations which could lead to such complaints.

In Amnesty International's opinion it is particularly important that these inquiries be seen to be thorough, impartial, and independent. Genuine and effective efforts being made by many police officers and Aborigines to improve their strained relationship should not be undermined by any deficiencies in the investigations.