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# Victorian Government Response to the Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody

October 2005





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The terms: *Koori*, *Koories*, *Aboriginal* and *Indigenous* are used throughout this document reflecting and respecting such broad usage within and across the Victorian Koori Community and the Victorian Government.

Unless prefaced and stated to the contrary, the term *community* refers to the Koori Community.

Recommendations from the Review can be found at: <http://www.justice.vic.gov.au> or in the Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody (Vol. 1)

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## Foreword

The 1991 Royal Commission began as an investigation into an alarming trend in deaths in custody.

It identified a number of immediate causes for these deaths and made 339 recommendations about how the past injustices and ongoing disadvantages faced by Indigenous Australians could be redressed. More importantly, it identified that deaths in custody were symptomatic of a much wider problem concerning the treatment of Indigenous Australians in the criminal justice system and their over-representation in the prison population – and found that this issue was part of the systematic discrimination and disadvantage experienced by Aboriginal people in Australia.

Fourteen years down the track, Indigenous Victorians still do not enjoy the same equality of experience and opportunity as non-Indigenous Victorians.

Victoria's Indigenous communities have low school participation rates, and high unemployment and imprisonment rates; low home ownership rates, and high hospital admittance rates; low birth-weight babies, and unacceptably high complication rates during pregnancies and childbirth. If we are to achieve true Reconciliation, it is a divide that must be bridged.

The Victorian Government has worked in partnership with Victoria's Indigenous communities to bridge that divide. Although some progress has been made, much remains to be done.

With that in mind the Victorian Government invited Dr Joy Murphy and Dr Mark Rose to revisit the Recommendations from the Royal Commission and assess, from the viewpoint of Indigenous communities, how effective Government responses have been and how those responses might be improved.

We would like to thank the many members of the Koori community who participated in the review by sharing their experiences, and thank the review's authors, Dr Murphy and Dr Rose, for their hard work.

The Victorian Government looks forward to working with Indigenous communities to address the issues raised in the review.

In doing so, we are working towards Reconciliation.



A handwritten signature in black ink, appearing to read 'Rob Hulls'.

**ROB HULLS, MP**  
Attorney-General



A handwritten signature in black ink, appearing to read 'Sherryl Garbutt'.

**SHERRYL GARBUTT, MP**  
Minister for Children  
Minister for Community Services



A handwritten signature in black ink, appearing to read 'Gavin Jennings'.

**GAVIN JENNINGS, MLC**  
Minister for Aboriginal Affairs



A handwritten signature in black ink, appearing to read 'Timothy Holding'.

**TIMOTHY HOLDING, MP**  
Minister for Police &  
Emergency Services and  
Corrections

# 1 Introduction

In 1991, the Royal Commission into Aboriginal Deaths in Custody identified that:

*Aboriginal people in custody do not die at a greater rate than non-Aboriginal people in custody ... However what is overwhelmingly different is the (greater) rate at which Aboriginal people come into custody, compared with the rate of the general community (Royal Commission, 1991, Vol. 1, 1.3.1, 1.3.2).*

The Victorian Government's primary focus in the years following the handing down of the 1991 Royal Commission's Final Report was to reduce deaths in custody, for both Indigenous and non-Indigenous Victorians, and to address the deficiencies in the system that may have contributed or assisted in their deaths.

Since 1999, the Victorian Government has taken practical steps to build stronger Indigenous communities, support healthy families, respect cultural heritage, and deliver jobs and justice, including:

- Committing \$45.7 million in new funding in the 2005-06 Budget to improve the prosperity of Indigenous Victorians – the largest single investment in Aboriginal programs in Victoria's history.
- Establishing the Premier's Aboriginal Advisory Council.
- Placing Aboriginal Affairs Victoria within the new Department for Victorian Communities to focus on community strengthening.
- Establishing the Stolen Generations Taskforce and implementing many of its recommendations – including the establishment of a Stolen Generations Organisation.
- Funding the Indigenous Community Capacity Building initiative and the Koori Business Network.
- *Supporting the Victorian Indigenous Community Leadership Strategy to help young people fulfill their potential and embrace their cultural heritage.*
- Signing an Aboriginal Services Plan covering health, aged care, housing and community services with all of Victoria's peak Aboriginal organisations.
- Establishing new Koori maternity services in Dandenong and Echuca.
- Implementing key recommendations from the Victorian Indigenous Family Violence Taskforce report.
- Implementing the Transition to Ownership Project, which will see the Aboriginal Housing Board of Victoria own and manage more than 1,100 dwellings for Indigenous Victorians.
- Reaching an in-principle Native Title Agreement with the Wotjobaluk people.
- Signing the Yorta Yorta Cooperative Management Agreement, giving the Yorta Yorta people a say in the management of Crown land in their traditional country.
- Introducing *Wur-cum barra* – a strategy to increase employment of Indigenous people in the Victorian Public Service.

The Government acknowledges that the dispossession of traditional lands, as well as policies and practices of past government administrations have contributed to Victorian Koories being significantly more disadvantaged than their fellow citizens. It understands that this acknowledgment is the fundamental starting point toward achieving reconciliation between Indigenous and non-Indigenous Victorians.

For this reason, the Government amended Victoria's Constitution in 2004 to recognise their unique status as descendants of Australia's first people, their spiritual, social, cultural and economic relationship with their traditional lands and their unique and irreplaceable contribution to the identity and well being of Victoria.

The State Government together with Indigenous communities has recently developed the Victorian Indigenous Affairs Framework, as a whole-of-government approach to overcoming Indigenous disadvantage. The Framework builds on the range of existing partnership arrangements, including the Aboriginal Justice Forum (Justice Forum), the Aboriginal Human Services Forum and the Indigenous Family Violence Partnership Forum.

The partnership between the State Government and the Koori community has continued to grow through initiatives such as these. In the area of justice, the Victorian Aboriginal Justice Agreement (Justice Agreement) has been critical in driving reform and improving responsiveness within the system.

Besides reducing Indigenous over-representation in the criminal justice system, the objective of the Justice Agreement has also been about building the capacity of the Koori community, particularly in regional centres, to positively participate in the justice system. A raft of important and potentially very effective initiatives to tackle over-representation has been developed under the Justice Agreement, such as the:

### **Aboriginal Justice Forum**

The Justice Forum provides a policy direction and monitoring role for the Justice Agreement. The Justice Forum is chaired by the Parliamentary Secretary for Justice and includes the Secretary for Justice; Under Secretary, Department of Human Services; Deputy Chief Magistrate; Commander, Operations, Victoria Police; Chairpersons of the seven Regional Aboriginal Justice Advisory Committees; the Victorian Aboriginal Legal Service; and the Victorian Aboriginal Justice Advisory Committee.

### **Regional Aboriginal Justice Advisory Committee (RAJAC) Network**

The RAJAC Network is the foundation of the justice system's relationship with the Koori community. There are seven RAJACs across Victoria that bring together representatives of Koori communities and justice agencies for the purpose of driving change at regional and local levels.

Actions are currently taking place to increase accountability and partnerships among local communities, justice agencies and local government. This approach has already seen the development of the Mildura Aboriginal Justice Advisory Committee, with similar initiatives under way in South West Victoria, Bendigo, Wodonga and Lake Tyers.

The focus of the RAJAC Network has been on Koori youth and the development of diversionary activities and related initiatives, including Job Fairs and sporting and cultural activities funded under the Justice Agreement's Community Initiative Program and the Frontline Youth Program.

### **Early Intervention and Prevention**

The Government's support for Indigenous Victorians includes significant additional investment in early childhood and family welfare services, such as strengthening support for Aboriginal families and young children, Koori Maternity Services, Aboriginal Best Start, Aboriginal Family Support Innovation Projects, and Aboriginal Family Decision Making Projects. In addition, new legislation proposed to replace the *Children and Young Persons Act 1989* will include a focus on keeping Aboriginal children and young people connected to families, communities and culture.

### **Courts**

The Aboriginal Bail Justice Program has been one of a number of tools developed to increase Koori participation across all levels of the justice system. The Aboriginal Bail Justice Program has had two intakes and has to date registered 19 Aboriginal Bail Justices.

The Shepparton Koori Court first sat on 7 October 2002 and was shortly followed by the Broadmeadows Koori Court in April 2003. During the first two years of its operation, the Shepparton and Broadmeadows Koori Courts finalised 167 and 90 matters respectively.

An independent review of the Koori Court found it had reduced the levels of recidivism, with re-offending rates at 12.5% for the Shepparton Koori Court and 15.5% for the Broadmeadows Koori Court – significantly lower than general recidivism rates of 29.5%.

Additional Koori Courts have been established in South West Victoria and Mildura, with a Court planned for early 2006 in Gippsland. Australia's first Koori Children's Court has recently commenced hearings in Melbourne. The success of Koori Courts is largely due to the significant role played by Koori Elders in their day-to-day operations.

### **Community Initiatives Program**

The Justice Agreement's Community Initiatives Program has developed a wide range of community-based initiatives – including the Murray River Marathon, the Perricoota Viticulture employment and training project in Echuca, and Bidga Bidga Old Fellas-Young Fellas Program.

**Night Patrol Program**

The Night Patrol Programs in Mildura and Shepparton are operated by community volunteers and have reduced the number of Koori children coming into contact with the juvenile justice system. As a result, ongoing Government funding from the Justice Agreement was secured for six programs around the State, including Bairnsdale and metropolitan Melbourne.

**Victoria Police Koori Initiatives**

There have been significant changes in the relationship between the Koori community and Victoria Police, ranging from the Aboriginal Community Justice Panel Program to the employment of Aboriginal Community Liaison Officers based in Mildura, East Gippsland and Melbourne as a joint-funded initiative between Victoria Police and the Justice Agreement.

A network of Police Aboriginal Liaison Officers has also been established across the State to drive local partnerships between Victoria Police and local Koori communities.

**Corrections Victoria**

Further to the work of the Warrakoo Life Skills Program, run by the Mildura Aboriginal Corporation with Koori offenders, Corrections Victoria is currently working with the RAJAC Network to develop a community-based Indigenous Adult Residential Diversion Program in Yarram.

The Women's Mentoring Program, operated by the Rumbalara Aboriginal Corporation in Shepparton, has been a huge success in reducing the breach rate of Koori women on Community Based Orders. The success of the program comes from a network of community Elders, who volunteer as mentors for the women. Similar models are to be established across the State for both Koori men and women offenders.

**Aboriginal Justice Agreement Mark 2**

The redevelopment of the Justice Agreement is a priority for the Justice Forum and the RAJAC Network. The next stage of the Justice Agreement will build upon the partnerships already in place, with an increased emphasis on youth and further strengthening of the partnerships at the local level, similar to the recently established Mildura Aboriginal Justice Advisory Committee.

The directions for the next Justice Agreement will come from the Koori community, and be informed by the findings and recommendations of the Review Report, along with a range of other reviews that have been undertaken for the Justice Forum over the past 12 months.

Although much has been achieved, ultimately, much more remains to be done.

In 2005, 14 years on from the Royal Commission, Victorian Koories are still 12 times more likely to be in prison than non-Indigenous Victorians.

Likewise, Victorian Koori children are almost 10 times more likely to be the subject of a child protection order or require out-of-home care, compared to non-Indigenous children, and 11 times more likely to be in juvenile detention. In 2003-04, only 11 per cent of Koori youth processed by police were cautioned, compared to 30 per cent of non-Koori youth. During the same period, 41 per cent of Koori youth processed by police were arrested, compared to 21 per cent of non-Koori youth.

We must do more to break this cycle.

Too many young people are ending up in juvenile detention, too many are re-offending, and too many are graduating into adult prisons. It would be far better for our community if we could find ways to see more of those young people graduating into university.

## 2 Victorian Indigenous Affairs Framework

The State Government's Victorian Indigenous Affairs Framework (VIAF), which has been developed to tackle Indigenous disadvantage, builds on the range of existing partnership arrangements, including the Justice Forum, the Aboriginal Human Services Forum and the Indigenous Family Violence Partnership Forum. These structures support the participation of Koori communities in decision making, as will the new Indigenous representative arrangements being developed with the Commonwealth and Victorian Indigenous communities.

The VIAF has been developed by the Victorian Government together with Indigenous communities, as a whole-of-government approach to overcoming Indigenous disadvantage and is based on the commitment given by the State Government in the Victorian Aboriginal Justice Agreement (4.1) to develop such an initiative.

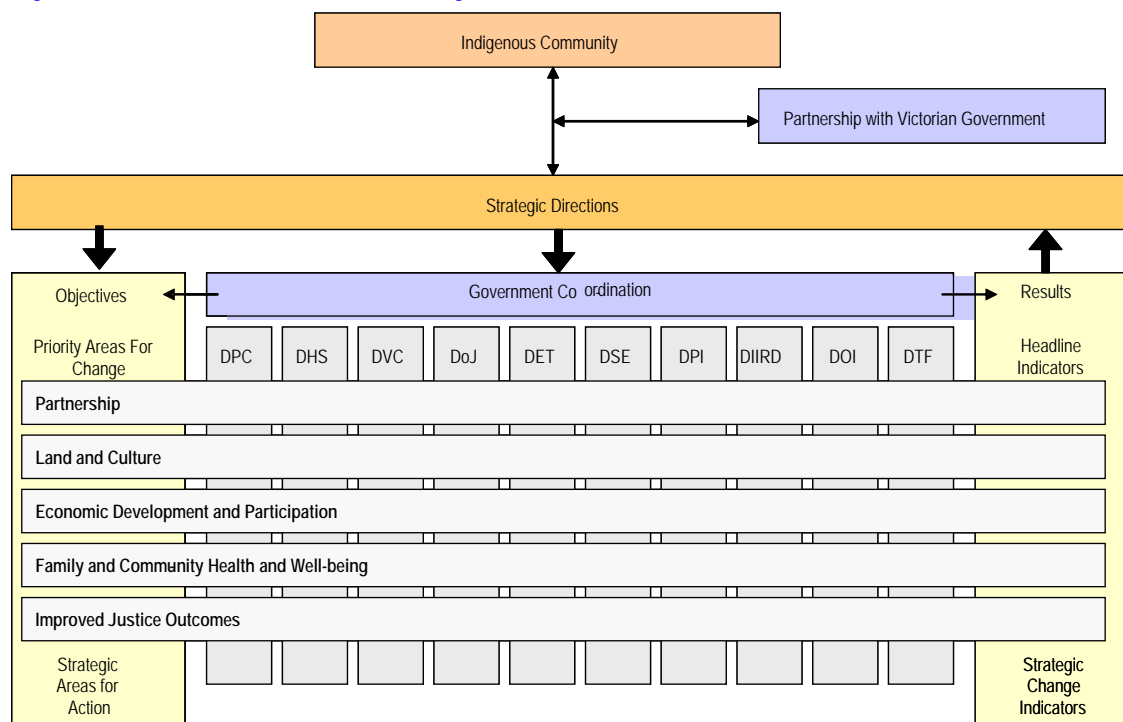
The framework aims to achieve partnership across government and between government and Indigenous communities, with particular emphasis on improving:

- Outcomes for Indigenous people;
- Coordination of government programs;
- Input and direction by Indigenous communities;
- Approaches to service delivery.

The Government recognises that Indigenous Victorians continue to experience disadvantage across a range of areas – indicators for early childhood outcomes, health status and participation and attainment in education all indicate a very significant gap between Indigenous and non-Indigenous Victorians. This gap is greatest in the area of statutory services; Indigenous children and young people are significantly over-represented in child protection and juvenile justice services, and Indigenous adults are significantly over-represented in all areas of Victoria's criminal justice system.

The Government is addressing these issues. Progress in reducing Indigenous disadvantage will be measured by development of performance indicators linking the Overcoming Disadvantage Framework and the VIAF.

Figure 1: Victorian Indigenous Affairs Framework



The approach reflects the knowledge and understanding that issues facing Indigenous families and communities in Victoria are interconnected and that new policy and service delivery approaches are required if progress is to be made in overcoming disadvantage. Five strategic areas for action have been identified in the framework:

- **Partnerships:** Recognising and respecting Indigenous peoples right to self-determination expressed through active partnerships with government that involve Indigenous Victorians in the planning, management and delivery of services.
- **Land and Culture:** Delivering land justice to Indigenous Victorians and protecting Victoria's Indigenous cultural heritage for future generations.
- **Economic Development and Participation:** Improving education and training outcomes to facilitate participation and economic development, and facilitating the effective translation of benefits of greater cultural recognition, land ownership and community control into opportunities for business development, employment and economic independence.
- **Family and Community Health and Well-being:** Developing positive strategies to address individual and community well-being that build on the strength of Indigenous culture, and help nurture and develop the well-being, knowledge, skills and identity of Indigenous Victorians.
- **Improved Justice Outcomes:** Addressing injustice and providing a safe and secure environment for Indigenous families and communities to live in.

The VIAF and the broad range of government initiatives currently underway to tackle Indigenous disadvantage, provide a sustainable approach within which consideration of the Review's Recommendations can occur.

*These initiatives complement and/or relate to Review Recommendations 9, 10, 158, 159, 160.*

## 3 Improved Justice Outcomes

The Aboriginal Justice Agreement (Justice Agreement) aims to minimise negative Koori contact with the justice system by improving responsiveness, accessibility, utilisation and effectiveness of justice-related programs and services. The Victorian Government and Koori community have worked in partnership to identify and implement locally relevant best-practice strategies to achieve this aim since the *Agreement's* launch in 2000. The Justice Agreement's central feature, and the reason for its success to date, is the dynamic partnership between the Koori community and government.

This partnership is best illustrated by the network of seven Regional Aboriginal Justice Advisory Committees (RAJACs), the Koori Caucus and the Justice Forum. Membership of the RAJACs brings together community representatives and Justice Agencies, including Victoria Police, Magistrates' Courts, Sheriff's Office, Corrections Victoria, Indigenous Issues Unit (DOJ) and VALS. Membership of the Justice Forum reflects the organisations represented on the RAJACs and includes, in part, the Parliamentary Secretary (Justice) as Chairperson, the Secretary and the Under Secretary of the Departments of Justice and Human Services respectively, Correctional Services Commissioner, Deputy Chief Magistrate, as well as senior community leaders from across the State. The Koori Caucus comprises community members of the Justice Forum who meet prior to Justice Forum meetings to achieve a collective Koori view on agenda items.

Some examples of best-practice initiatives that are currently being implemented and/or funded as a result of the Justice Agreement include the Warrakoo Life Skills Program, RAJAC network, Koori Courts, the Koori Night Patrol Program, the Community Initiatives Program, the Frontline Youth Initiative Program, the Shepparton-based Koori Women's Mentoring Program and the Victoria Police Aboriginal Community Liaison Officer Program. The Community Initiatives Program has been operating successfully since 2001. Its primary objective is for communities (in partnership with government) to identify and pilot locally-based best-practice initiatives to reduce over-representation. Almost 50 programs have been funded over the past four years through the Community Initiatives Program.

Redevelopment of the Victorian Aboriginal Justice Agreement (AJA2) is a key priority for both government and community, with developmental work already under way, and its launch scheduled for Reconciliation Week 2006. Fundamental to the development of AJA2 will be the continuation and strengthening of the principles and protocols of the current Justice Agreement and the partnership between government and the community.

AJA2 will be based on a range of source documents, including the Implementation Review Report, the recent Review of the Koori Courts and the Review of Koori Access to Legal Representation, amongst others. Given the strong results of the evaluation of the Koori Courts, especially in terms of reducing re-offending, the Government will give full consideration to strengthening this program as part of the development of AJA2.

### 3.1 Early Intervention

In July 2005, Victoria Police committed to the implementation of a new district-based youth model to better meet the needs of young people across the State. It will be delivered through Youth Resource Officers (who will be allocated to all police districts) and will have an increased focus on local communities, including Koori communities. The Resource Officers will receive Indigenous cultural awareness training and will work with local partners to identify local youth issues and assist in the development of programs and strategies to improve outcomes for young people. The program will emphasise development of the capacity of operational police to work with young people. The new model will begin operation in 2006.

## 3.2 Prevention of Harm

All government agencies that incarcerate Victorians take their duty-of-care very seriously, both during incarceration and post-release.

### Victoria Police

With respect to the recommendations of the Implementation Review, if a person under the care, custody or control of police is intoxicated or in a state of impaired consciousness, police must conduct an assessment and take appropriate action, which might include the provision of first-aid and seeking prompt medical assistance.

Police receive comprehensive training relating to the duty of care of persons held in police custody, including first-aid training (where they must maintain a current Operation Safety and Tactics Training qualification). All incidents occurring in custody are subject to internal monitoring and review. The Office of Police Integrity also provides independent oversight to the investigation of any complaints in relation to these matters. To further reduce the possibility of harm, Victoria Police is undertaking a number of positive initiatives to identify distressed and at-risk suspects and avoid taking intoxicated Aboriginal people into custody.

Substantial progress has been made in relation to improving the safety of police cells and Victoria Police is taking further action to review all facilities that regularly hold sentenced and remand prisoners.

The *Victoria Police Manual* indicates that police have a responsibility to ensure the safety and welfare of any person in their custody or whom they may come in contact with during their duty. They must ensure that prisoners receive prompt and appropriate medical or psychiatric care if required and are regularly checked to ensure their safety and health. Practices and procedures are in place to ensure the appropriate recording and communication of medical information, and the transfer of information between shifts. In addition, watch-house keepers may admit friends or relatives to visit a prisoner if they believe it will not compromise the security, management or good order of the watch-house.

### Juvenile Justice

The juvenile justice program fully recognises its duty of care towards young people in custody and has put in place a range of health initiatives to assist in meeting this responsibility. When a young Koori person enters a custodial centre, the centre's Aboriginal Support Worker is notified and consulted regarding their needs. All young people entering the juvenile justice custodial system have a comprehensive health assessment, which includes their mental health and alcohol and other drug needs, within 24 hours of reception. For young Koories this must be completed within 12 hours of reception, and the Aboriginal Support Worker is immediately informed of their admission. The young person is kept under 'close' or 'constant' observations until the health assessment has been completed. In addition to this health assessment, all young people receive a Mental State Examination within 48 hours of reception, conducted by psychiatrically trained nurses.

Where there is any indication that a young person may be at risk of harm, structures are put in place to support them, including further assessment and treatment by psychiatrists and psychologists and, where necessary, referral to specialist mental health services. In addition to assessment at reception, health staff work closely with young people in custody and monitor them for emerging mental health signs and symptoms. Complementing this, juvenile justice workers are trained to be aware of symptoms and behaviours that might indicate mental and emotional disturbance and which should be regarded as triggers for referral to the health service.

In recognition of the stresses that may be associated with re-entering the community, linkages with appropriate health services in the community are made as part of the pre-release planning process. This will include, where indicated, referral to mental health and/or alcohol and other drug services.

Juvenile Justice has a range of procedures and programs to ensure that the pre- and post-release needs of clients are met. This includes the Victorian Offending Needs Indicator for Youth, an assessment summary tool

used as part of the comprehensive client assessment and planning process for all Juvenile Justice clients. A detailed and individualised client service plan is developed to inform case management and prioritise interventions based on assessed needs.

A number of projects and procedures are being implemented that contribute to client rehabilitation, including the Victorian Juvenile Justice Rehabilitation Review, 2003, the Drug and Alcohol Strategy, development and implementation of the Mental Health Protocol, the transitional housing management juvenile justice pathways pilot project, the Mentoring pilot, implementation of the revised Juvenile Justice Centre Operations Manual, and the development of a cultural component to the Youth Parole Board Reports.

Juvenile Justice has a Koori Juvenile Justice Program that provides preventative, diversionary and case-management support to young Koories who have contact with, or are at risk of contact with the juvenile justice system. There are currently 11 full or part-time Koori Juvenile Justice Workers employed by Aboriginal Co-operatives or agencies in five Victorian regions plus a Koori Liaison Officer employed at each of the three Juvenile Justice Centres. To accommodate the potential increased demand through the change in age jurisdiction, Juvenile Justice plans to further extend the Koori Juvenile Justice Program.

### **Corrections Victoria**

The Victorian Government is well aware of its duty of care to prisoners in its custody and offenders under its supervision. As a result, it has developed appropriate programs, procedures and staff training to appropriately discharge that duty-of-care.

Victoria's prison system has a comprehensive reception and orientation process that involves screening for risk of harm so that appropriate management arrangements can be put in place. Where there are risk concerns following this assessment, prisoners must undergo psychiatric screening within two hours. Irrespective of this, all newly received Koori prisoners are referred for psychiatric screening within 24 hours of reception. To assist the reception and assessment process, reception staff actively seek information from police, files from previous periods of incarceration, courts and other sources. In addition, culturally aware staff interview all newly received Indigenous prisoners, most often on the day of reception, and always within 24 hours of reception. This provides a further avenue of culturally specific information that is made available for medical and prison staff if necessary. This protocol recognises the vulnerability of Indigenous prisoners on reception into prison, due to the impact of incarceration and separation from family.

Corrections Victoria is committed to ensuring that prisoners are provided with all necessary support in the wake of a critical incident. The 12-month pilot period of a program that is establishing a team (the Critical Incident Support Team) of specially trained professionals to coordinate and participate in large-scale debriefs, and respond to system crises, has recently been completed. The team provides short-term intensive psychological support to prisoners affected by a critical incident, as well as assisting any individuals requiring ongoing support. The initiative will be reviewed to determine if it is to continue.

In this environment of continuous improvement, Corrections Victoria ensures that all critical incidents are reviewed to identify opportunities for systemic improvement. It also supports independent review of its policies and procedures where important systemic review is required.

Corrections Victoria's Internal Review and Investigations Unit prepares full and frank reports for the Coroner's Court in relation to prisoner and offender deaths, while the Corrections Inspectorate (independently of Corrections Victoria) reports to the coroner on prisoner deaths. As part of this reporting process, system enhancement opportunities may be identified and often Corrections Victoria will have implemented these before the Coroner's Court hearing and report. Community Correctional Services (CCS) has established an Offender Deaths Review Working Group to assist systemic improvement following an offender or prisoner death. The Government is confident that current procedures for dealing with deaths of prisoners and offenders in care meet the expectations of both the coroner and the community.

The State's corrections system also delivers a number of transitional services to Koori prisoners and ex-prisoners. An aim of these programs is to reduce the risk of prisoners being harmed soon after release.

### 3.3 Diversion

Following the initial recommendations from the Royal Commission, the Government established seven Koori Alcohol and Drug Resource Centres (Aboriginal-run sobering-up centres). The Victorian Government is also considering proposals to decriminalise public drunkenness, as recommended by the report on public drunkenness released by the Drugs and Crime Prevention Committee in 2001.

The lower level and provision of police cautioning to Koori youth (in comparison with other Victorian youth) is a serious concern to the Koori community. Victoria Police will work with relevant government agencies and the VALS to progress the cautioning issue and will table an outcomes paper at the Justice Forum. VALS has already received funds from the Justice Agreement to develop a pilot diversionary project for Koori youth in Mildura. It will also make systemic data about police cautioning rates available to the Koori community as a matter of course.

The Victorian Government commissioned a review of Victoria's sentencing laws in 2000 and the *Pathways to Justice – Sentencing Review* was released in 2002. As a result of the Review, the Sentencing Advisory Council (SAC) was established in 2004, to incorporate a broader range of views into the development of sentencing policy. The SAC has Koori representation and is committed to an inclusive, consultative and open approach to its work. It is currently reviewing the operation of suspended sentences and is scheduled to release its final report in late 2005.

The Victorian Law Reform Commission (VLRC) is also currently undertaking a comprehensive review of bail in Victoria. The Terms of Reference ask the VLRC to review the *Bail Act 1977* and its practical operation to ensure that it is consistent with the objectives of the justice system. The review will also make recommendations for any procedural, administrative and legislative changes that will ensure that the system operates simply, clearly and fairly. In conducting its review, the VLRC will look at the impact of the bail system on Indigenous Victorians.

The Government's Home Detention Program commenced as a pilot program on 1 January 2004 and Corrections Victoria is eager to ensure that Koories have equal opportunity to participate in the program. To September 2005, two Koori women had been granted and have completed home detention orders. Statistics have not been kept in relation to the number of applications received from Koories. The fact that the program presently operates as a pilot only in the metropolitan area means that it is not yet available in many areas with high concentrations of Koori offenders. The pilot period for the program will finish on 31 December 2006, when the sunset provisions are due to come into effect. The program is currently undergoing an evaluation by The University of Melbourne.

Juvenile Justice provides bail supervision and specialist court advice to magistrates and judges on sentencing options and supports available for young people, to assist in diversion from detention. A central after-hours assessment and bail placement service is also provided to assist in diverting from custody remand.

### 3.4 Rehabilitation

#### Juvenile Justice

Juvenile Justice has a strong focus on rehabilitation, which is reflected in its comprehensive client assessment and planning process. Client needs are addressed through casework interventions and referral to specialist programs and services. Offence-specific programs addressing violence and sexual offending are provided. Other programs and specialist services include alcohol and drug interventions, transitional housing support, post-release support programs, mentoring, and education and employment-based programs.

Education programs are currently provided to all young people in custody through the Tertiary and Further Education (TAFE) program. Juvenile Justice implements a number of other mainstream regional initiatives that target the education, training and employment of its clients, for example the Mentoring Pilot Program, the Early School Leavers (ESL) Pilot Program and other employment-related programs.

Discussions are under way towards piloting a regionally-based Indigenous ESL program as a component of the program's second pilot phase. Juvenile Justice will consider further Indigenous-specific program options aimed to better address education, training and employment needs in custody and in the community.

### **Corrections Victoria**

Victoria's prison system delivers a number of mainstream transitional services that are available to Koori prisoners and ex-prisoners. These include Bridging the Gap (BTG), the Correctional Services Employment Program (CSEP), the Transitional Assistance Program and the Corrections Housing Pathways Initiative. Corrections Victoria also funds a number of Koori-specific programs, such as the Women's Mentoring Pilot and the Warrakoo Life-skills Program.

Corrections Victoria is further developing its transitional framework to ensure there is a series of graduated program options available to prisoners. This framework will be culturally appropriate and demonstrate understanding of Koori communities and their needs. Further consideration will also be given to enhancing Corrections Victoria's current transitional programs (including BTG and CSEP) to better cater for the needs of Koori prisoners.

After consultation with the Koori community, Corrections Victoria has developed a Koori Education, Training and Employment Strategy, which aims to reduce re-offending among Indigenous prisoners and offenders through provision of targeted education, training and employment assistance. After this strategy has received ministerial endorsement, a review committee will be established to oversee the implementation of the strategy.

The correctional system also delivers a range of therapeutic programs to prisoners and offenders that aim to reduce re-offending. The mainstream Cognitive Skills Program was adapted to meet the needs of Koori prisoners and was piloted at three prison locations in 2004-05. Its delivery will be expanded to five prison and CCS locations.

Together with a sub-committee nominated by the Justice Forum the Victorian Government has also completed significant work toward developing the Indigenous Adult Residential Program. In April 2005, the Justice Forum agreed to develop the Residential Program at Yarram, Gippsland. It is expected to open early in 2007. Extensive research has been undertaken to inform its development and the Program Model and Functional Brief have been endorsed by the Justice Forum. The program will allow up to 20 Koori adult male offenders to undertake a culturally appropriate residential program while completing their community-based orders.

The Koori Tertiary Scholarship Scheme was one of the first initiatives delivered through the Justice Agreement. It aims to assist Koories to attain qualifications that will increase their employment prospects in justice-related fields. With the aim of reducing the rate at which Koori offenders re-offend, two scholarships have been awarded in the past two years to Koori psychology/sociology students. The scheme's selection criteria were amended at the start of 2005-06 to further encourage Koori students studying in fields related to behaviour change and mental health-related fields to apply. Further amendments will be made before the next academic year to specifically target Koori students studying in these areas.

## **3.5 Responsive Justice System**

A substantial number of initiatives are being implemented within the justice system to make it more responsive to the needs of Koories.

The Government is committed to doing more to ensure that Koories coming into contact with the Victorian justice system receive fair and equitable outcomes, comparable to those experienced by other Victorians, be they offenders, victims or family members. Similarly, the Government is committed to developing a justice system that is proactively responsive to the needs of the Koori community.

## Victoria Police

Victoria Police provides administrative assistance and financial management to the network of Aboriginal Community Justice Panels (ACJP) across the State. It also provides a full-time member to assist with regional liaison and act as a focal contact point for ACJPs. The ACJP is an incorporated body with an executive that makes decisions on policy and direction. The ACJP has conducted a review of its operations and resource requirements and is in the process of implementing the review recommendations.

Under the Crimes Act, if a person in custody is under 18, a parent/guardian or independent person must be present before any interview is conducted by police and must be given an opportunity to speak with the child in private before the interview. An independent person must be present if the parent/guardian is not present. Government has already had discussions with Koori communities in relation to increasing the number of Koori Independent Third Persons. This proposal will be further discussed at the Justice Forum.

According to existing Victoria Police policy, where a person who identifies as being of Aboriginal or Torres Strait Islander descent is taken into custody, the police member responsible must complete the Attendance Register as required (which will create a notification to VALS) and notify the local ACJP, which will notify relatives and friends. The suggestion by the Review Team that police directly and immediately notify family raises significant issues of privacy, and requires further examination and consultation. Victoria Police has existing instructions for release of information and notification of relatives where there is a death in custody.

The Government agrees in principle with the concept of a 'ready reckoner' to flag Koori prisoners at risk and will work with the Justice Forum to explore feasible options.

Victoria Police is committed to employing Koories, as demonstrated by its completed draft of the Wur-cum barra Strategy, implementation of recruitment and retention strategies to broaden the diversity of its members' backgrounds, development of Indigenous Bridging Programs and employment of four Aboriginal Community Liaison Officers (ACLOs). Expansion of the ACLO program is a priority of the Koori Caucus and is a priority initiative for inclusion in the next stage of the Justice Agreement.

## Juvenile Justice

DHS' duty-of-care responsibilities are outlined in the revised Juvenile Justice Centre Operations Manual and Juvenile Justice Case Practice Standards Manual. An implementation strategy relating to these manuals (including training) will be completed in 2005 and processes are in place for the monitoring of key procedures. The mechanisms currently in place to assist with monitoring the standard of care provided to custodial clients include:

- Activities undertaken by the Ombudsman;
- The role undertaken by the Chaplaincy service and the Aboriginal Liaison Workers;
- Custodial Unit meetings;
- Visitors and day contact with support staff such as health, program and TAFE staff; and
- Complaint-reporting and monitoring systems.

A compliance framework is planned to assist with monitoring compliance with policy and procedures in custodial centres.

Government has guidelines for responding to juvenile deaths in custody that include a requirement to notify families. Current guidelines will be enhanced to include guidance on notification of Aboriginal family members in the event of a death. DHS has an inquiry and reporting process that takes place following a juvenile death in custody and is in addition to any requirements of the Coroner's Court.

Cultural supports and programs are currently available to young Koories in custody and procedures are being developed to ensure the involvement of Koori Juvenile Justice Workers with the Youth Parole Board and parole planning process. Options for further cultural programs for juvenile custodial centres will also be considered. A

personal cultural plan format is currently being piloted in Juvenile Justice custodial centres and will be implemented Statewide after evaluation.

### Courts

The Aboriginal Liaison Officer (ALO) role operating at Melbourne Magistrates Court is being expanded to employ an additional worker. The responsibilities of the ALO include providing support to Koori participants and assisting them to fully understand court processes.

The Koori Court Program, a core initiative of the Justice Agreement, has also been specifically tailored to meet the needs of the Koori community with courts now operational in Shepparton, Broadmeadows, Mildura and a south-west circuit court covering Warrnambool, Portland and Heywood. The program has recently been evaluated and the report is due to be considered by the Justice Forum in December 2005. A key finding of the report is that the Koori Courts are making a real difference in reducing re-offending rates.

The report contains 19 recommendations, two of which have already been implemented (the repeal of the sunset clause and the creation of a Koori Court Co-ordinator Magistrate). A further three recommendations (recognition of traditional owners, appropriate Koori Court magistrates and exclusion of certain family violence matters and sexual offences) are consistent with current practice. Given the strong results of the evaluation of the Koori Courts, especially in terms of reducing re-offending, the Government will give full consideration to strengthening this program as part of the development of AJA2.

The Children's Koori Court was launched in September 2005 and began sitting in early October 2005. The court will also be independently evaluated over a two-year period, similar to the evaluation undertaken for the Koori Courts. In 2003, the Justice Forum requested that government consider the establishment of a Children's Koori Court (Criminal Division) in Victoria. The development of the Children's Koori Court was overseen by a State-wide reference group, which developed the Children's Koori Court Model and the *Children and Young Persons (Koori Court) Act 2004*. Following this, the Justice Forum agreed that the first Children's Koori Court should be located in a metropolitan location. Consequently, a metropolitan reference group was established in 2005 which developed the remaining operational and policy issues required for the establishment of a Children's Koori Court division at the Melbourne Children's Court.

The Aboriginal Bail Justice Program is also an initiative of the Justice Agreement and is one of a number of tools developed to increase Koori participation across all levels of the justice system. The program has had two intakes and has registered 19 Koori Bail Justices. Government is currently undertaking a review of the broad Bail Justice Program and is expected to make comment on the Aboriginal Bail Justice Program. A specific review of the program will occur in the current financial year 2005-2006. The terms of reference and specification for this review will be informed by the outcome of the broader Bail Justice Program's review. All reviews of Justice Agreement initiatives require the involvement of the Koori community through the RAJAC network.

### Judicial College of Victoria

The Judicial College of Victoria (JCV) is active in providing training to raise awareness of Indigenous culture among Victorian judicial officers. The JCV has additional awareness-raising initiatives planned, for example:

- A Diversity Workshop in 2006 that will explore the dynamics of discrimination and disadvantage;
- Additions to the Judicial Officers Information Network, specifically a chapter on the sentencing of Koori offenders and procedures used in the Koori Courts;
- Delivery of a Family Violence Training Package in 2006-07;
- A further conference in 2007 relating to Koori issues in the justice system.

### State Coroner

In conjunction with the Victoria Police, the State Coroner has developed a revised 'Report of Death to the Coroner', which will include the Indigenous status of the deceased. That status will be entered on the National Coroners Information System (NCIS), which includes information on deaths reported to coroners in Australia.

The Government has also referred the *Coroners Act 1985* to the Victorian Parliament Law Reform Committee for review, including whether the Act provides an appropriate legislation framework for making recommendations to prevent deaths and for the provision of support to families. The Government will consider any recommendations made by the committee when it reports.

### Corrections Inspectorate

All prisoners have the right to make complaints concerning their treatment to the Minister, the Secretary of the Department of Justice, the Corrections Inspectorate, the prison General Manager, an Official Prison Visitor and the Ombudsman. The correctional system endeavours to deal with all complaints directed to it (whether directly or otherwise) promptly and effectively and in a manner that ensures fairness, equity and openness.

As an initiative of the Justice Agreement, three Koories have been appointed as Official Prison Visitors and the Corrections Inspectorate is proactively working to increase the number to eight, providing for local Koori appointments wherever there is a correctional facility. The role of the Official Visitor is to be the 'eyes and ears' of the Minister of Corrections and they are expected to report on matters that the Minister or the community may be concerned about or unhappy with. The scheme allows members of the community to access the prison as observers and creates a valuable link between the prison and the community.

Reports from Official Visitors are managed by the Corrections Inspectorate (independent of Corrections Victoria) on behalf of the Minister for Corrections. The Corrections Inspectorate will report to the Justice Forum on the Aboriginal Visitors Program as requested.

### Corrections Victoria

The Government is committed to developing appropriate services to Koori prisoners and offenders. Recently, this has included responding to an identified need for Koori women offenders by allocating funding under the Better Pathways Initiative, for two houses to be used for diversion or transitional purposes.

Corrections Victoria has endeavoured to appropriately cater for the needs of Indigenous offenders through AJA and other funding with:

- Employment of six Indigenous Community Corrections Officers to supervise Indigenous offenders and provide information to the Indigenous community regarding the role of CCS;
- Appointment of a Manager, Indigenous Policy and Services Unit, to support a consistent and collaborative approach to dealing with Indigenous issues in the correctional system;
- Appointment of Aboriginal Well-being Officers (AWOs) to support Indigenous prisoners in a range of ways, including with meeting their pre- and post-release needs;
- Nomination of existing staff as Indigenous Services Officers (ISOs) to assist in meeting Koories' needs and to build strong links with local Indigenous communities;
- Delivery of Aboriginal Cultural Immersion Program in CCS and prisons;
- Assisting in the development and implementation of the Mentoring Program for Aboriginal Women co-facilitated by Rumbalara in partnership with Shepparton CCS;
- Providing other forms of support to Indigenous offenders, including drug and alcohol counselling, family support, cultural education, family history tracing, etc.

The Government is also committed to employing Koories at all levels and in all types of positions, which assists in the implementation of Wur-cum barra and the Koori Recruitment and Career Development Strategy. Corrections Victoria advertises identified positions in national Indigenous newspapers and often directly contacts community organisations requesting assistance to fill vacancies. In addition, a recruitment approach to increase community interest in all positions in new prisons is being developed. It is anticipated that a greater understanding of Corrections Victoria's philosophies and practices as part of the ongoing implementation of the Justice Agreement will encourage Koories to work in and with the correctional system.

It is also noted that as part of the new Health Care Standards that will come into effect in January 2006, Corrections Health Care Providers will ensure (among other things) that all health staff are provided with appropriate training and education to assist in the delivery of best-practice health care to Koori prisoners. These new Health Care Standards were developed using information gathered in the Review of the Victorian Prisoners Health Service Delivery Model and a Victorian Prisoner Health Status Study. The review was the most extensive study of its kind undertaken in Australia and the study deliberately over-sampled Indigenous people to ensure the results could be generalised to the Indigenous prison population.

Corrections Victoria is committed to a collaborative approach with the Koori community in its management of Koori offenders. To this end, it is developing a Community Work Manual that will include a specific section relating to the Koori offenders' community work placements. The manual will recognise the importance of cultural and community links for Indigenous offenders and provide them with the opportunity to work on culturally relevant work programs where possible, to satisfy community-service hours.

Corrections Victoria already endeavours to provide Indigenous offenders with the opportunity to work in Indigenous organisations, for example:

- The Cultural Appreciation Program and Environmental Scheme is a pilot project that enables Indigenous offenders reporting to CCS to undertake culturally relevant community work, as well as skills development provision of TAFE modules relating to the environment. The program is conducted once a week and is supported by a Koori ranger from Parks Victoria. The project has recently undergone a review, the findings of which are currently under consideration.

Based on the successful Shepparton-based Koori Women's Mentoring Program, the Department of Justice has made a commitment to allocate annual funding for the provision of a State wide, community-based mentoring program for both Koori men and women on community based orders.

The correctional system will continue to provide opportunities for Koori prisoners to engage in culturally relevant and culturally important activities. To facilitate these continued efforts, Corrections Victoria has recently undertaken a review of the ISO Network to ascertain its effectiveness in meeting the needs of Koori prisoners and offenders. The review is now being considered by Corrections Victoria and makes a number of recommendations to improve the consistency and effectiveness of the network.

The Government is working towards settling a model for nationally uniform legislation on spent convictions. The issue has been discussed at the Standing Committee of Attorneys-General (SCAG) several times and is expected to be further discussed at the SCAG meeting in April 2006.

### 3.6 Promoting Civil, Legal and Human Rights

The Victorian Government is active in delivering Justice-related activities that aim to promote the civil, legal and human rights of Victorian Koories.

#### Discrimination

The EOCV currently coordinates the Indigenous Reference Group and a Reconciliation Working Group to assist the commissioner in ensuring the civil, legal and human rights of Indigenous peoples and communities. It is also conducting research into the experiences of Koories using the EOCV's complaint process and is preparing detailed recommendations to government on changes to the *Equal Opportunity Act 1995 (Vic)*. If actioned, these recommendations will enable the EOCV to respond more effectively to racial and other forms of systemic discrimination. The EOCV also has a range of other projects that address discrimination in contexts; for example, it is working with the Tenants Union, VALS and the Aboriginal Housing Board to report on discrimination in the private rental market.

The EOCV will continue to proactively work through the RAJAC network to consult with and deliver information to the Koori community about all its projects.

### **Death in Custody**

The Victorian Government supports in principle the proposition that family members be provided with access to the scene of a death in custody. Unfortunately, this is often not practical, given the operational constraints of prisons and detention facilities and particularly when the death is being investigated.

Inspection of the scene of the incident may be possible at a later date (and has occurred in some cases), however all requests must be considered on their merits which will include consideration of the investigation, security, safety and other relevant issues.

### **Family Contact**

To date, Koori prisoners have only enjoyed ad hoc access to programs such as Link Up and the Koori Family History Service. Access has generally only resulted after ALOs or AWOs have requested that program personnel attend the prison to see a particular prisoner or group of prisoners. Corrections Victoria will engage with the Stolen Generations Organisation of Victoria and its associated initiatives with a view to developing greater consistency and regularity in the provision of reconnection programs across the prison system.

The Government also supports a policy aimed at facilitating Koori prisoner involvement in significant events such as a family funeral and, through the Justice Agreement, financial assistance is available to facilitate family visits to prison.

### **Prison Accommodation**

All prisons have comprehensive reception and orientation programs designed to assist prisoners integrate into the prison environment, to identify issues of concern and to implement management plans that address immediate concerns. To the extent possible, Corrections Victoria also accommodates Koori prisoners across the system with a view to best meeting their needs. This includes prioritising Koori prisoners for shared accommodation, where appropriate, and endeavouring to place them near their family.

## **3.7 Research, Monitoring and Evaluation**

### **Research and Evaluation**

The Department of Justice is developing a systematic data set detailing Indigenous over-representation in the criminal justice system, using data from Victoria Police, Courts and Corrections Victoria. When developed further, it will also describe juvenile contact with the criminal justice system, which is currently reported through the Australian Institute of Criminology and the Report on Government Services publications. The data set will provide the foundation of data-related reports to the Justice Forum, including recommendations about how Government's E\*Justice data system should be revised to better assist outcome evaluation and evidence-based decision making.

Corrections Victoria currently provides monthly reports on the average daily number of Koori prisoners and offenders at each prison and CCS location to interested stakeholders. It is also developing processes to ensure the quality and accuracy of data relating to the rate of return of Koories to the prison system.

Victoria Police reports on abusive/offensive language offences under the major category "Behaviour in Public" and also measures all incidents involving use of force and collects data on Koories held in police cells. Provision of this information to other Justice agencies raises privacy issues that require further consideration

The SAC has established a Koori Sentencing Statistics Reference Group to improve the current availability and quality of Indigenous sentencing statistics. It is also finalising a series of 'Sentencing Snapshots' on Indigenous sentencing outcomes, which will be released in the coming year. There are three snapshots in this series:

- Indigenous and non-Indigenous adult imprisonment rates in Victoria;
- Indigenous and non-Indigenous juvenile detention rates in Victoria;
- Indigenous over-representation in prison and detention across Australia.

### Monitoring and Investigation

The Victorian Government will continue to provide information on all deaths that occur in custody to the Australian Institute of Criminology (AIC), which maintains a national database as a result of the Royal Commission Recommendation. The NCIS also collects information on deaths reported to coroners in Australia, including deaths in custody.

The Victorian Government notes that there has been considerable discussion and debate about the definition of a death in custody. Currently, the definition recommended in the Royal Commission into Aboriginal Deaths in Custody has been accepted and the AIC is notified of deaths that fall within this definition. Nevertheless, the Victorian Government acknowledges that there may be some deaths of Indigenous people who do not fall within this definition but who die when in contact with the criminal justice system. Government believes that further discussions and research need to be undertaken to determine whether this definition should be expanded beyond the definition in the Royal Commission Report.

A Compliance Framework will be developed to assist with monitoring compliance with policy and procedures in juvenile custodial centres as described in the revised Juvenile Justice Centre Operations Manual.

Although the Corrections Inspectorate maintains a comprehensive data set on complaints made to Official Prison Visitors by Koori prisoners, the Department of Justice does not maintain systematic data on complaints made by Koori prisoners through other means. It also does not currently maintain systemic data relating to the rate of placement of Koori prisoners in segregation. Corrections Victoria will give further consideration to developing such data systems and will report to the Justice Forum on such initiatives.

*These initiatives complement and/or relate to Review Recommendations: 1, 2, 7, 14, 15, 16, 19, 31, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 156.*

## 4 Partnerships

The Victorian Government is committed to working in partnership with Indigenous Victorians to redress the effects of the dispossession of land and culture and build successful strategies to improve outcomes.

### 4.1 Community Engagement

A Fairer Victoria (2005) announced a new approach to the way in which government will work with Indigenous communities and commits government to developing better ways of working with them at a regional and local level. Toward this end, the Victorian Government and the Commonwealth Office of Indigenous Policy Coordination are undertaking extensive consultations with Victoria's Indigenous communities to establish new community engagement arrangements. The outcome of these consultations will assist government to better respond to the particular needs in local areas, in partnership with local Indigenous communities.

The Victorian Government has also given a commitment to streamline consultations and introduce single funding agreements with Indigenous organisations to meet the concerns of Aboriginal communities about cutting 'red tape'.

When implemented, the new State-wide community engagement strategy will lead to practical improvements in relationships between Indigenous communities and State and Local Government Authorities.

The Victorian Government is also providing Indigenous organisations with access to management and governance-related training and support.

The Government has established a Secretaries Group for Aboriginal Affairs to oversee the development of these new approaches and identify additional strategies that can be implemented to improve outcomes.

### 4.2 Reconciliation

Fundamental to achieving reconciliation between the Indigenous community and the broader Victorian community is acknowledgement by the latter that, due to past wrongs, Indigenous Victorians remain significantly disadvantaged compared to their fellow citizens in this State. The Victorian Government is committed to achieving true reconciliation between all Victorians, both Indigenous and non-Indigenous, and ensuring that the barriers of disadvantage and inequities are confronted, challenged and diminished.

The Government will continue to support the reconciliation process, primarily through the provision of funding to Reconciliation Victoria. It will also continue to support a wide range of initiatives in Reconciliation Week and is funding the establishment and ongoing operation of the Stolen Generations Organisation, which will play an important role in redressing previous injustices.

### 4.3 *Constitution (Recognition of Aboriginal People) Act 2004*

Government believes that the new section in Victoria's Constitution, resulting from the *Constitution (Recognition of Aboriginal People) Act 2004*, provides a strong foundation upon which to redress the disadvantage experienced by Indigenous Victorians. The Constitution now recognises that, as the original custodians of the land on which Victoria was established, Aboriginal people have:

- A unique status as the descendants of Australia's first people;
- A spiritual, social, cultural and economic relationship with their traditional lands and waters within Victoria; and
- Made a unique and irreplaceable contribution to the identity and well-being of Victoria.

In addition to this Constitutional amendment, government continues to demonstrate its interest in protecting and promoting the human rights of its citizens through the current Human Rights Consultation Committee process.

The Government understands that these actions are necessary but not sufficient to redress Indigenous disadvantage in Victoria.

*These initiatives complement and/or relate to Review Recommendations 23, 24, 26, 27, 28, 30, 32, 33, 155, 157, 161, 163, and 164.*

## 5 Land and Culture

### 5.1 Native Title and Land Needs

The *Native Title Act 1993* is Commonwealth legislation and requires Commonwealth action for legislative amendment that would allow for the transfer of land to Koori communities. Within the current legislative framework, the Victorian Government is seeking to settle native title claims through a variety of options, including the transfer of specific land parcels to claimants, the implementation of cultural projects and non-native title forms of land recognition.

As demonstrated by its agreement with the Yorta Yorta community for the management of public land within their traditional lands, the Victorian Government will also work toward ensuring that the community has a role in land management. A Joint Body is being established to provide strategic advice to government on the management of public lands. Already, the involvement of Koori groups in the development of wood utilisation strategies and fire protection and management plans for national parks and other public land is seen as a core land management function.

The Victorian Government will also provide opportunities in land and natural resource management through the Aboriginal Land and Resource Development Strategy (ALRDS) and development and implementation of agency-specific Indigenous Partnership Framework (IPF). The IPFs are likely to include economic development and employment opportunities for Koori communities, groups and individuals involved in farming enterprises, forestry, aquaculture, fishing and land management. The ALRDS will provide government and the Koori community a clear set of objectives for a strategic, goal-driven approach to addressing Indigenous disadvantage and strengthening Indigenous communities. The following three programs will be delivered through the strategy:

- The Indigenous Land Management Framework is being developed to provide a whole-of-government policy framework to address Indigenous aspirations for land and natural resource management.
- The Aboriginal Cultural Heritage Management Strategy describes how the Victorian Government and other parties will work in partnership with Victoria's Aboriginal communities to protect and enhance appreciation of their cultural heritage.
- The Aboriginal Land and Economic Development Program will promote and protect Victoria's cultural heritage and involve more Aboriginal communities in land and resource management, sustainable tourism ventures and new business opportunities. The Victorian Government has committed \$9.6 million over three years to support land initiatives that address Aboriginal cultural, social and environmental needs. A range of training initiatives will be included to support economic independence and employment in Indigenous communities.

### 5.2 Cultural Heritage

The Victorian Government acknowledges Aboriginal people as the rightful owners of their heritage and as having primary responsibility for its control and management. In partnership with Indigenous Victorians, the Government is working to modernise and strengthen arrangements to protect Indigenous cultural heritage primarily through:

- Development of an Aboriginal Cultural Heritage Management Strategy to strengthen processes for protecting and managing Indigenous cultural heritage. In 2004 it released the Victorian Aboriginal Cultural Heritage Management Strategy Discussion Paper to begin development of the strategy.
- New cultural heritage legislation is also being developed and an exposure draft of the Bill has been released for community consultation. Currently Indigenous cultural heritage in Victoria is protected by a combination of State and delegated Commonwealth legislation. New State legislation will result in responsibility for Victoria's Indigenous cultural heritage resting wholly within Victorian law. This will provide more effective protection for Indigenous cultural heritage within Victoria. It will broaden Indigenous community decision-making arrangements and provide a consistent and transparent approach to managing Indigenous cultural heritage in relation to land use and development proposals.

*These initiatives complement and/or relate to Review Recommendations 29 and 162.*

### 5.3 Arts

The Victorian Government is continuing to demonstrate its strong commitment to Indigenous arts by supporting collections and exhibitions featuring Indigenous art and establishing the Annual Victorian Indigenous Arts Awards. This commitment is well demonstrated by the 2002 launch of the Deadly Arts Business Program by the Koori Business Network in partnership with Arts Victoria and the Australia Council. This program aims to:

- Build successful sustainable Indigenous arts businesses across Victoria through improved information links and networks;
- Progress the development of distinctively Victorian contemporary Indigenous art practice;
- Through the arts, improve economic opportunities for Koories living and working in Victoria.

The program will build on its impressive record, which includes conducting visual and performing art exhibitions and showcases across Victoria, coordinating two Indigenous Arts Conferences, compiling and producing an art catalogue profiling Victorian Indigenous visual artists, establishing a State-wide Indigenous art award, conducting arts-related business training workshops (in marketing, business planning and product development), appointing an Indigenous Arts Officer and delivering a mentoring program for Indigenous artists.

Future activities are expected to include development of a strategy to export Koori art, undertaking a research project to explore the need for Regional Arts Co-operatives, investigating the viability of an Indigenous gallery/retail outlet in the central business district, developing a catalogue of Indigenous performing arts and further developing partnerships with the private sector to increase the capacity of the Indigenous arts sector.

### 5.4 Cultural Awareness

The Victorian Government recognises that an improved understanding of Koori culture among its employees will contribute to the strengthening and protection of the community's cultural heritage and to the delivery of services that are responsive to the needs of Indigenous Victorians. To this end, the majority of Government Departments are currently delivering or planning cultural awareness training to employees working with Indigenous people and delivering services to Indigenous communities. These training programs are developed and delivered by or in consultation with Indigenous people and will be evaluated to ensure ongoing improvement. Details of the training programs will be provided to the proposed State-wide Indigenous Representative body, as will the outcomes of evaluations relating to them. Similarly, the details of the cultural awareness training program being delivered in the Department of Justice will be provided to the Justice Forum.

*These initiatives complement and/or relate to Review Recommendations 24, 26, 28, 29, 30 and 162.*

## 6 Economic Development and Participation

### 6.1 Education

The Victorian Government is committed to improving education outcomes for Koories as a means of enabling them to more fully participate in the Victorian economy. Its approach is multi-faceted and targets early learning and achievement and retention at school.

#### Early Learning

Government understands that early learning is an important foundation for social and economic well-being later in life. In recognition of this, it will continue to work with the Commonwealth Department of Education, Science and Training and Victorian Aboriginal Education Association Incorporated (VAEAI) to promote increased participation of Koori children in State-funded kindergartens.

There are a number of examples of the work being done by the Victorian Government toward this end. It is implementing the Koori Early Childhood Education Program (KECEP), which aims to increase the number of children attending kindergarten and encourage all kindergarten programs to become more culturally relevant for Koori children. This is consistent with the objectives of the *Commonwealth Indigenous Education (Targeted Assistance) Act 2000* and the State Government's policy to ensure that all children have access to a year of kindergarten prior to school entry.

To complement the KECEP the Victorian Government released the *Supporting Aboriginal and Torres Strait Islander Children in Kindergarten* kit in 2005 to further promote kindergarten participation by Koori children. The kit contains a number of practical tools to assist kindergarten teachers to develop culturally inclusive programs and to promote the importance of kindergarten to the Indigenous community.

#### School Achievement

In recognition of the importance of school achievement to success in later life, the Victorian Government will continue to work in partnership with VAEAI to improve educational outcomes for Koori learners of all ages, as defined in the Yalca policy and the Wurreker Strategy and Koori Education Schools Strategies.

Future activities will focus on increasing Indigenous attendance and engagement at school, improving literacy, building the skills of Koori education workers, building partnerships between schools and Indigenous communities and establishing a Federation of Koori Open Door Education (KODE) schools in preparation for their autonomy as model schools and centres of educational excellence. In addition, a research project is under way to investigate Victorian schools' practices of suspension and expulsion and examine their impacts on Koori students.

Government also recognises the important role that Victorian schools can have in reviving and reclaiming Indigenous languages. It has been an active participant in the development and accreditation of the Victorian Certificate of Education Indigenous Languages (Revival and Reclamation) Study design and has supported the Victorian Aboriginal Corporation for Languages in its efforts to provide opportunities for Koori communities to explore issues relating to the rejuvenation of local Indigenous languages by actively participating in two regional community forums. Further, government is taking a leading role in facilitating the teaching of Indigenous languages by negotiating the inclusion of a relevant module in the Certificate III (Aboriginal Education Workers) course currently being studied by most Koori Educators. It is also an active participant in the Victorian Curriculum Assessment Authority working party exploring Indigenous language teaching pathways.

### 6.2 Employment

While overarching responsibility for employment policy rests with the Commonwealth, the Victorian Government is contributing to increased Indigenous employment by enhancing employment opportunities in private industry and State and local government, as well as through supporting development of Indigenous-owned enterprise.

### Public and Private Employment

Victorian Government employment programs are currently being refocused to strengthen participation in the labour market by disadvantaged job seekers facing significant barriers to employment, this includes Indigenous job seekers. Government is also implementing two programs that specifically aim to increase employment opportunities for Indigenous job seekers – the Youth Employment Scheme (which has, as one of its aims, increasing employment of young Indigenous people in State Government Agencies) and the Jobs for Young People Program (which provides opportunities for employment of young Indigenous people in local government). As part of these programs, government has employed an Indigenous Employment Co-ordinator to work with locally-based Indigenous Employment Officers in local government and community organisations.

The Indigenous Employment Development Co-ordinator also assists in sharing information regarding employment initiatives with Indigenous communities, contributes to linkages with Aboriginal enterprises, and assists in improving their connection to Commonwealth initiatives.

Ladders to Success is a community initiative jointly funded by the Commonwealth and State Governments in Shepparton. This initiative supports the placement of job-ready Indigenous people in ongoing private-sector employment through local community and business partnership development.

Wur-cum barra is a whole of government strategy designed to increase participation of Indigenous people in the Victorian Public Sector.

### Private Enterprise

The Victorian Government's Aboriginal Affairs policy, Our Path to Reconciliation (November 2002), committed government to expanding support for Indigenous economic development. To achieve this outcome, government expanded the Koori Business Network's (KBN) role from primarily advisory to a more proactive policy and programs role, where it supports the growth, participation and sustainability of Indigenous businesses. As an outcome of this and in partnership with the Commonwealth and Indigenous communities, the Victorian Government has developed the Building the Economic Base Strategy, which will deliver increased economic opportunities to Koories by:

- Expanding the KBN so that it is able to provide increased policy and program development support;
- Developing the Industry Policy Program, which will deliver assistance packages to key Indigenous industries (for example, bush foods, cultural tourism, arts and aquaculture);
- Delivering grants-based funding programs aimed at stimulating and growing Indigenous businesses;
- Establishing culturally relevant business support programs;
- Strengthening relationships between agencies involved in providing business support to Koories;
- Improving business-related data gathering, reporting and analysis to support Indigenous business potential, growth and sustainability.

*These initiatives complement and/or relate to Review Recommendations 3, 4, 5, 6, 8, 12, 13 and 25.*

## 7 Family and Community Health and Well-being

### 7.1 Alcohol and Drugs

The Victorian Government funds a number of programs to address the abuse of alcohol, drugs and other substances in Koori communities. These programs are already partially or fully addressing issues raised by the community in the Review Report. With the exception of the Koori Drug Plan 2003-04 (which will only be evaluated in part), government will consider how to progress these issues, which are currently only partially addressed.

As described in the Review Report, a number of programs are already being delivered and further initiatives are under consideration, for example:

- Funding is provided to 11 Aboriginal Co-operatives and two mainstream organisations to deliver the Koori Community Alcohol and Drug Worker Program and seven Aboriginal Co-operatives to deliver a Koori Community Alcohol and Drug Resource Service.
- A Koori Drug and Alcohol Advisory Committee (formerly the Koori Solvent Abuse Working Group) has been established to provide advice to the Drugs Policy and Services Branch, DHS, on the development and implementation of the Koori Drug and Alcohol Strategy.
- Victoria is a member of the Inter-governmental Committee on Drugs, which reports to the Ministerial Council on Drug Strategy (MCDS). The MCDS endorsed the National Alcohol Strategy 2001-04, which includes a focus on further research in issues relating to Aboriginal alcohol consumption. Victoria is developing its Alcohol Action Plan, which will include a section on the Koori community and alcohol.

The Victorian Government recognises that laws relating to the supply of alcohol are important for Koori communities, particularly in relation to alcohol misuse. As with the broader community, the *Liquor Control Reform Act 1998* provides an opportunity for Koories to object to the granting or variation of liquor licences. To date, there have been no requests from Koori communities to introduce more extensive controls over liquor availability, but the opportunity exists for them to do so. This could occur through government's whole-of-community approach to the management of licensed premises, which involves stakeholder participation at a community level through liquor-licensing forums and accords.

Government continues to conduct the Responsible Service of Alcohol training for communities when requested and has adopted 'The Grog Book' as a framework to provide ideas and strategies for managing alcohol. It is also represented on the Indigenous Issues Working Party established by the Australasian Liquor Licensing Authorities Conference and will seek Koori input into that representation through the Justice Forum.

### 7.2 Housing

While the Commonwealth is responsible for the Indigenous Community Housing Organisation sector (Community Housing Infrastructure Program, which includes housing in the Lake Tyers and Framlingham communities), the Victorian Government is committed to fostering a collaborative approach that will improve coordination between the two Indigenous housing programs, the Aboriginal Rental Housing Program (jointly managed by the State and the Aboriginal Housing Board of Victoria (AHBV) and the Community Housing Infrastructure Program. Part of this process involves working jointly with the Commonwealth and the Aboriginal community to improve community representation on the Victorian Indigenous Housing Joint Planning Committee. Victoria is also working with the AHBV to move it to a position where it can operate independently from government.

### 7.3 Family

The Victorian Government accepts that past policies resulting in the removal of children have contributed significantly to the worse health and well-being of Koori families and communities. It is undertaking a number of initiatives to redress these disadvantages:

- Stolen Generations Victoria (SGV) was incorporated in June 2005 and is currently undertaking a range of basic establishment activities. When fully operational, SGV will coordinate new and existing service delivery, develop a research and knowledge base, and represent the interests of the Stolen Generations to government and the wider community.
- In 2005, the Public Record Office of Victoria (PROV) published Finding Your Story, a comprehensive resource manual of government and non-government record and archival collections in Victoria relevant to Stolen Generations and their families. The resource manual provides information on the location of records and ways to access them, and also provides linkages to organisations where Indigenous people can find out more about their cultural heritage and wider family history. The PROV continues to work toward improving access to records for Indigenous people removed from their families as children.
- Through the work of its Koori Records Unit, PROV facilitates access to records for the Koori community. It will shortly begin a Name Indexing Project to index all names that appear in the Koori records in its collection and undertake initiatives to encourage Koories to visit its reading rooms and access the collection.
- The Victorian Koori Records Taskforce, managed by PROV, is currently in the process of delivering the Wilam Naling: Knowing Who You Are report, which will make recommendations to improve Koori access to records.

The Indigenous Family Violence Partnership Forum is overseeing the development and implementation of a Ten-year Indigenous Family Violence Plan. This plan will inform and be informed by a number of policies and strategies across government that aim to improve the safety and well-being of Indigenous families, children and communities.

Government has also established three holistic family healing services (and funding has been provided for a fourth), an Indigenous Men's Resource and Advisory Service and three counselling scholarships to address family violence within Indigenous communities. Four time-out services for Indigenous communities experiencing family violence have also been funded.

## 7.4 Children

The Victorian Government understands that the poorer health and well-being of Koori families and communities impacts substantially on children and young people. In response, it will continue to implement strategies to foster the development of tomorrow's leaders. For example, it will:

- Fund the establishment of the Victorian Indigenous Youth Advisory Council, which will provide a voice for young Koories on issues affecting them;
- Implement the Youth at the Centre Project to empower young Koories within their communities;
- Deliver the Advance Youth Development Program, which provides funds to a KODE school, as well as an Indigenous-specific program at Camperdown College;
- Develop a more focused Indigenous youth participation strategy in line with the broader youth policy framework of government. Part of this process will involve a mapping exercise of existing programs with Indigenous youth involvement.

Early-years research confirms that children's experiences within their environment, particularly in the first few years of life, dramatically impact on brain development and subsequent lifelong health and well-being. A positive, nurturing and responsive environment within the context of the family and community life is extremely important.

Initiatives aiming to improve children's health, development, learning and well-being include:

- In-home support for Aboriginal parents, with children aged 12 months to three years, by:
  - Strengthening the support for mothers/parents/primary caregivers and their local Koori community in their parenting;
  - Employing, training and providing professional development for Koori women;

- Promoting a holistic approach to supporting young families through the antenatal period, birth and with children up to three years of age by linking with and building on the Koori Maternity Services in each site.

Four new Aboriginal Best Start projects were funded in the 2005-06 budget, to improve access to services for Koori children and their families – particularly those who are vulnerable – and improve service collaboration and co-operation to ensure local planning is relevant to them.

Although the Aboriginal Child Placement Principle (ACPP) has not been explicitly recognised within statute in Victoria, it is reflected within the *Children and Young Persons Act 1989* and is contained in the proposed Children Youth and Families Bill. It is also agreed in a protocol signed by Child Protection and the Victorian Aboriginal Child Care Agency in 2002. The Aboriginal Child Specialist Advice and Support Service provides an Indigenous perspective on risk and safety in relation to all Aboriginal children notified and helps to ensure Child Protection's compliance with the ACPP. A number of other initiatives are also being implemented that aim to reduce out-of-home placement of children (and separation of children from their family, community and culture), including:

- Aboriginal Family Decision Making to enable extended family and respected community Elders to participate in decision making about the care and protection of the children and young people in their community;
- Indigenous Family Support Innovation Projects to provide an early intervention and ongoing community support alternative to child protection intervention for vulnerable families;
- Aboriginal Family Restoration programs – another new initiative that aims to keep Aboriginal children in their families safely.

Community and professional development initiatives have been put in place to support the implementation of these programs.

## 7.5 Health

The Victorian Government will continue to deliver initiatives aimed at improving the health and well-being of the Indigenous community.

### Hospitals

The newly developed Improving Care for Aboriginal and Torres Strait Islander Patients Program has been established by trebling the Aboriginal supplement (from 10 to 30 per cent) to the payment per patient to hospitals, the Weighted Inlier Equivalent Separation. This is expected to lead to the employment of additional Hospital Liaison Officers. While the role of the Liaison Officers remains very important, emphasis is on a whole-of-service responsibility for ensuring identification of, and appropriate care for Aboriginal patients. This involves the provision of Indigenous cultural respect training for staff and partnerships with Aboriginal organisations, including the development of structures such as Aboriginal Advisory Committees.

### Mental Health

In partnership with the Victorian Aboriginal Community Controlled Health Organisation (VACCHO) the Government will use Purro Birik (the Social and Emotional Well-Being Strategy) and its evaluation to guide Indigenous mental health policy and service development across the State. (VACCHO is funded to employ a project officer to assist in the implementation of Purro Birik). The evaluation discussion paper made 14 recommendations in four main categories: workforce and services development, local partnership agreements, coordination and planning, and training. Future mental health resources targeting Indigenous communities will take account of these recommendations. Government will work with VACCHO, the Mental Health Liaison Officers, specialist mental health services and Aboriginal communities and services to improve Indigenous access to culturally sensitive treatment and care through liaison, education, training and support.

*These initiatives complement and/or relate to Review Recommendations 11, 17, 18, 20, 21, 22, and 76.*

## 8 Abbreviations

ACLO	Aboriginal Community Liaison Officer
ACJP	Aboriginal Community Justice Panel
ACPP	Aboriginal Child Placement Principle
AHBV	Aboriginal Housing Board of Victoria
AJA2	Victorian Aboriginal Justice Agreement Mark 2
ALO	Aboriginal Liaison Officer
ALRDS	Aboriginal Land and Resource Development Strategy
AWO	Aboriginal Well-being Officer
BTG	Bridging the Gap
CCS	Community Correctional Services
CSEP	Correctional Services Employment Program
DHS	Department of Human Services
DOJ	Department of Justice
EOCV	Equal Opportunity Commission Victoria
IPF	Indigenous Partnership Framework
ISO	Indigenous Services Officer
JCV	Judicial College of Victoria
KBN	Koori Business Network
KECEP	Koori Early Childhood Education Program
KODE	Koori Open Door Education
MCDS	Ministerial Council on Drug Strategy
NCIS	National Coroners Information System
PROV	Public Record Office of Victoria
RAJAC	Regional Aboriginal Justice Advisory Committee
SAC	Sentencing Advisory Council
SCAG	Standing Committee of Attorneys-General
SGV	Stolen Generations Victoria
TAFE	Technical and Further Education
VACCHO	Victorian Aboriginal Community Controlled Health Organisation
VAEAI	Victorian Aboriginal Education Association Incorporated
VALS	Victorian Aboriginal Legal Service
VIAF	Victorian Indigenous Affairs Framework
VLRC	Victorian Law Reform Commission