

3 How the Victorian Implementation Review was conducted

3.1 Summary

- This section explains how the Review was conducted. It outlines the partnership approach adopted and how it incorporates the principles from the *VAJA*.
- The Implementation Review Steering Committee was established following agreement on the Terms of Reference by the Victorian AJF. Two Indigenous Chairpersons, Dr Joy Murphy and Dr Mark Rose were appointed to lead the Review, commencing in November 2003.
- The major phases of the Review consisted of a pre-consultation and planning phase, a community consultation phase and an analysis and reporting phase, and was conducted over a period of twelve months.
- The Review systematically gathered evidence, initially from government departments, about their implementation of the Commission's Recommendations and then through extensive consultation with the Indigenous communities across Victoria (this included visiting prisons, detention centres, courts and police stations and holding community forums across Victoria). Statistical information was also sought from government agencies and the Australian Bureau of Statistics (ABS) and was analysed for relevant trends and comparisons (see Volume 2 – Statistical Information).
- The Review developed and implemented a communications strategy. Written submissions were called for (Appendix 1), a Discussion Paper was released in March 2004; monthly newsletters were widely distributed; a Free-call number was made available to the public as well as to Indigenous prisoners; articles appeared in the press and radio interviews were conducted by the Review Chairpersons.

3.2 A Partnership Approach

The Victorian Implementation Review, which commenced in November 2003, is unique in that it has sought to draw both on the perspectives of government agencies with their self-assessment reports on implementation and on the views and experiences of Indigenous people.

The partnership approach adopted by the Implementation Review represents the continuation of the dialogue between the Indigenous community and the Victorian Government established through the *VAJA* in June 2000. It incorporates the following principles from the *VAJA*:

1. *Recognise the uniqueness and diversity of Aboriginal culture, society and history in Victoria, and promote reconciliation that gives proper recognition and respect to the Indigenous people of Victoria.*
2. *Recognise the impact of dispossession of traditional lands, the separation of children and families, past policies on the social and economic position of the Aboriginal community, and the resultant over-representation of Aboriginal people in the police, courts and correctional systems and as victims of crime.*
3. *Maintain commitment to the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody and to adhering to the key principles outlined by the Commission including that:*
 - *arrest should be a sanction of last resort;*
 - *imprisonment should be a sanction of last resort;*
 - *Aboriginal communities participate fully in the planning, delivery and evaluation of policies, programs and services that affect them.*
4. *Require priorities and strategies (for improvement) of programs and services be developed and implemented primarily at the local level and agreed with Aboriginal community organisations.*
5. *Recognise that to achieve improved justice outcomes, there must be a whole-of-government co-ordination and commitment at the highest levels of government in addressing Indigenous disadvantage and the underlying issues.*
6. *Recognise that improved justice outcomes for Aboriginal people require the Aboriginal community and government agencies with relevant and related responsibilities to work together to achieve specific outcomes/goals.*
7. *Recognise that improved justice outcomes will only be achieved when the Aboriginal community and organisations are empowered to act on their own behalf and when adequate resources are available.*
8. *Develop and enhance program and funding arrangements that promote effective operation of the Victorian Aboriginal Justice Agreement.*
9. *Focus on early intervention and primary crime prevention to reduce the over-representation of Aboriginal children and youth in the criminal justice system (Department of Justice, 2000: 25-26).*

3.3 Getting the Review Started

In the *VAJA* (2000), a commitment was made by the Victorian Government to undertake, jointly with the Aboriginal community, a:

... rigorous annual review of the [Royal Commission's Recommendations] implementation across the whole-of government ... [and to] ... assess the implementation of the recommendations according to their intent, and identify opportunities to build upon their objectives and mechanisms (Department of Justice, 2000: 16).

In April 2002 the AJF, the peak coordinating body responsible for overseeing the development and implementation of the *VAJA*, initiated and co-ordinated the commencement of this Review. The AJF agreed to expand the scope of the Review from Justice specific to cover the whole of government, and agreed to the Terms of Reference. Membership of the Steering Committee was drawn from AJF representatives.

Appointment of Chairpersons and Establishment of the Review Team

The Review has been led by two Indigenous Chairpersons who are both highly respected members of the Victorian Aboriginal community – Dr Joy Murphy and Dr Mark Rose. Both Chairpersons were appointed in November 2003 by the Steering Committee. The Chairpersons provided independent expertise and comprehensive knowledge and understanding of the Victorian Aboriginal community and the socio-cultural factors impacting on it. Their biographical details provided in Appendix 2.

Management and reporting arrangements

The Implementation Review has been conducted with the support and guidance of the Implementation Review Steering Committee. The Committee was chaired by the Parliamentary Secretary (Justice) and comprised members of the AJF and Department of Justice representatives (Membership is listed on page ix).

The AJF was provided with progress reports about the Review at the Forum meetings held in October 2003, April 2004, October 2004 and April 2005.

Scope of the Terms of Reference

The task set for the Review by the Terms of Reference was clear. It was to assess the intent, currency and compatibility of the 339 Recommendations within the principles of the *VAJA* and to include an identification of enhanced program design and delivery, where relevant, taking into consideration best practice examples from interstate and/or international jurisdictions.

The Review was not to be limited to areas within the Justice portfolio but was to examine, as the Commission had so strongly advocated, the underlying issues which lie upstream from the criminal justice system but are inextricably linked to the downstream consequences involving contact with police, courts and corrections. The Review was not to formally investigate any specific Indigenous deaths which had occurred after the Royal Commission, nor claims of abuse, violence or criminal behaviour. However, when disclosure of non-compliance with the Recommendations or illegal behaviour occurred, the Review Team referred the issue to relevant agencies, as appropriate.

An important aspect of the Review was to consider the Recommendations in today's environment and the continuing relevance of each Recommendation. It was also an opportunity to reconsider which Recommendations were not (or) were no longer relevant to Victoria, which could be merged with others, and to identify new emerging issues.

In practical terms, the diverse and complex nature of the 339 Recommendations and the limited guidance by the Commission on which Recommendations were considered of greatest priority (were all the Recommendations equivalent?), presented the Review Team with a dilemma. Some Recommendations were more in the nature of suggestions; some were highly specific, and others required immediate action. This created difficulties in assessing implementation and must have created even more difficulties in attempting implementation as has been noted by Williams and Urbas (2004) and others, such as Cunneen and Macdonald (1997), Aboriginal Justice Advisory Council (NSW) (2000). The complex nature of many Recommendations made assessment of implementation difficult in that the community could not respond to individual Recommendations in isolation from the impact of other, related ones.

For the Implementation Review, these issues were resolved in several ways. With limited resources, and given the complexity of the issues, the Review Team had to make the decision to prioritise the Recommendations. In the context of the partnership approach between the Victorian Indigenous community and the government, this meant focusing on what the community identified as important, thus maintaining the integrity of the process by using appropriate culturally aware methodologies. At a strategic directions workshop for the Review held in April 2004, broad themes and areas for special attention among the 339 Recommendations were identified. In addition, closer attention was paid to those Recommendations consistent with the principles of the *VAJA* and to those where:

- the impact of the changed environment might be expected to be greatest; and
- there might be large divergences between community perspectives, and what government self- assessment responses and the statistical information showed.

3.4 Major Phases of the Review

The Implementation Review tasks undertaken between November 2003 and November 2004 were divided into three phases. Phase 1 entailed pre-consultation planning and research. Phase 2 involved extensive, state-wide consultations with the Indigenous community, conducted by the Review Team and led by the Chairpersons. Phase 3 required the analysis of information and drafting of the Review Report. Details of each phase, and the activities undertaken, are provided in Appendix 3.

3.5 Communication Activities

It was important that the aim of the Review was clearly understood by all stakeholders. To this end, considerable care was taken to explain to the Indigenous community what the task of the Review was and a comprehensive communications strategy was developed and implemented. The Terms of Reference were widely circulated through the Discussion Paper, released in March 2004, and at every opportunity the focus of the Review was emphasised. This emphasis included confirmation that each of the 339 Recommendations would be examined (but not all could be considered in equal depth), and that there would be consideration of clusters of Recommendations to better understand what had been implemented and their current relevance. Even though the Review Team was located within the Victorian DOJ, its scope was whole-of-government and beyond, and included the underlying issues.

At the start of the Review there were misunderstandings by individuals, in both government agencies and in the Indigenous community, about its scope. It was believed by some that

the Chairpersons were *Commissioners* and that there would be *hearings* where *evidence* would be taken. Among the non-Indigenous community, it was sometimes asked, *which Royal Commission?* or whether *it would only investigate Aboriginal deaths in custody?* For the Indigenous community there was, and could only be, one Royal Commission and one which stressed very clearly the importance of underlying issues in contributing to Indigenous deaths in custody and over-representation in the criminal justice system. There was misinformation circulating about the outcomes of the Review – for example, that it had recommended the abolition of some services or programs (even before any recommendations had been drafted). These issues highlighted the need for a comprehensive communications strategy, which was developed and implemented in early 2004.

During the course of the Review, the Chairpersons also briefed key stakeholders on progress. These included the AJF and Government representatives, including the Attorney-General, the Secretary, DOJ, the Social Development Committee of Cabinet (SDCC) and the State Co-ordination and Management Council. The Review Team also met on a number of occasions with the RAJAC Chairpersons and Executive Officers.

The Review Team discovered early on that there was little information available about the Royal Commission itself. The 1991 *National Report* was not readily available and there was limited knowledge of the specific 339 Recommendations (although there was a high level of awareness about the Royal Commission itself within the Indigenous community). To obtain information about community perspectives on the degree of implementation, it was therefore first necessary to give the community access to the actual Recommendations so that there was knowledge about what was to have been implemented, thereby enabling better assessment of implementation progress. To address this lack of access, the Review Team provided copies of the 1991 *Royal Commission into Aboriginal Deaths in Custody National Report* and its related Reports on a CD-ROM (1000 copies were distributed to libraries and community organisations, as well as to government agencies). A booklet was also produced containing all the Recommendations in numerical order with an index at the front enabling the reader to search quickly for Recommendations of interest – 1000 copies were distributed as part of a package of information to community groups and organisations during the consultation. This was particularly appreciated by prisoners, as the following comments demonstrate:

Every Koori prisoner should be given a copy of the Royal Commission Recommendations so that we know what they [prison] can and should be doing for us when we are in prison (Indigenous male prisoner).

Peer Educators should have this booklet of Recommendations if no one else [does] so that we can look after our boys (Indigenous male prisoner).

In reality it should be that if one of the boys comes to me and tells me that one of the Recommendations has been broken or breached by the prison then there should be a place like the Implementation Review Team that I can contact so that we feel like someone is listening and something will be done about it (Indigenous male prisoner).

3.6 Release of Discussion Paper

A Discussion Paper was prepared and released in March 2004. The Discussion Paper described the key issues to be raised for consideration during consultation and set the scene for the Review. It was designed to stimulate reflection and debate about how, and how

well, the Recommendations have been implemented, what new and emerging issues could be identified and where good practice approaches have been developed. The Discussion Paper was widely distributed (more than 2000 copies) across Indigenous communities and Government agencies. One important purpose of the Discussion Paper was to provide background information about the Royal Commission and the Review to the Aboriginal community. Specifically, the Discussion Paper included an overview of the Royal Commission – what it was, why it was established, what the findings were, and what has happened since the Final Report was tabled in Federal Parliament in 1991. It also outlined the purpose of the Implementation Review, its Terms of Reference and scope, as well as providing information on how the Review would be conducted. The current environment was described including the changes that have occurred since the Commission and what has not changed.

The Discussion Paper included specific details on the implementation status for individual Recommendations derived from the self-assessment responses provided by Victorian Government Departments in 2003. A summary analysis of implementation status was presented, as were questions for use during the consultation period. These questions sought to guide the consultation and subsequent review processes. They were also intended to facilitate the identification of new and emerging issues with regard to addressing underlying issues, preventing Indigenous deaths in custody and reducing Indigenous over-representation in the criminal justice system.

3.7 Collecting the Evidence about Implementation Progress

The Review relied on three different sources of evidence for implementation, and attempted to arrive at an assessment against a set of evaluation criteria. These included: what the policy position was on individual Recommendations; who had implementation responsibility and what programs, strategies and other actions had been put in place for implementation and with what funding; the extent of Indigenous participation in the development of these actions and their delivery and evaluation; compatibility with the *VAJA* principles and whether opportunities for improvements could be identified. At the same time attention was paid to identifying examples of best practice in program design and service delivery.

Self-assessment responses provided by government agencies about implementation

Information was initially sought from Victorian Government departments in October 2002 on implementation progress against allocated Royal Commission Recommendations, in terms of whether they were fully implemented, partially implemented, no progress or no longer relevant. General comments were requested on achievements and difficulties in implementation, and evaluation of services and progress developed in response to the Recommendations. Also asked about was the extent to which the Aboriginal community participated in the design, development, implementation and evaluation of responses, as well as how the *VAJA* principles and objectives assisted (or hindered) implementation of the Recommendations. Comments were also sought on ongoing opportunities for Aboriginal participation, possible enhancements to the current relevance of the Recommendations and suggestions for new directions or policy proposals.

The self-assessment responses received by June 2003 were analysed and further contact took place in 2004 where insufficient information was provided or where further clarification

was required. The information received from Departments⁷ and presented in the Review covers, in the main, the period October 2002 to June 2003. In March 2005 Victorian government departments were invited by the Steering Committee to check the factual accuracy of their self-assessment responses and to provide concise information on recent developments and program enhancement up to November 2004.

Issues identified in the audit of the self-assessment responses included the way the Recommendations were allocated to departments, a lack of clarity as to the Victorian Government's policy position on specific Recommendations and where responsibility for implementation lay, how implementation was to be defined, measured and monitored, and a lack of guidance on the measures to use. The nature of the Recommendations themselves did not make responding to the request simple. Some Recommendations contained sub-parts, involving more than one agency with no capacity built in to the process to determine an overall assessment or even whether this was the best approach to determine implementation status.

Statistical information and research

Statistical information for this Review came from a range of sources, and is presented in a separate document, Volume 2. The Review collected statistical information from the Census and relevant survey data collected by the ABS, which quantifies the information from the community, as well as administrative data drawn from the government departments as part of their service delivery. However, the quality of the data, in particular in relation to Aboriginal identification, varies considerably across agencies and services. This is due to differences in the definitions used to determine Indigenous status, the processes used to collect the data and the willingness of persons to identify as Indigenous (likely to be influenced by the type of service provided, and whether it is voluntary or involuntary and perceptions about how the information will be used).

While administrative data collections provided comprehensive information about Indigenous contact with the criminal justice system, surveys were another source. Although infrequently conducted, surveys permit some indication of unrecorded offending and victimisation.

Wherever possible both trend and comparative statistical information were sought as a way of gauging progress with the implementation of many Recommendations (see Volume 2). The ABS was commissioned to analyse the Census data from Victoria over three Census years. Some agencies, such as the DHS, Victoria Police⁸ and Corrections Victoria, provided extensive statistical data which enabled assessment of the impact of implementation on many issues.

Recent developments in statistical collections such as those held by police, courts and corrections are improving the data available and increasingly conforming to ABS standards. However, there remain a number of areas in government where there was inadequate or no information available for use by the Review, thus limiting the monitoring of progress with regard to a number of Recommendations.

⁷ It should be noted that a number of machinery of government changes occurred in January 2003 as well as subsequent organisational changes within government departments. Therefore, where the Review Report refers to government departments, it is referring to current government organisational arrangements.

⁸ In particular, the recording of crime by police is a complex process that depends on definitions of what a 'crime' is, police discretion when deciding whether to record an incident and the various counting rules that are used, and the public's willingness to report to police.

Community perspectives

The evidence from the community came from consultations that were held across Victoria between March and November 2004 (see Section 3.8). In addition, written submissions were received from Aboriginal persons and organisations, and from non-Aboriginal persons (see Appendix 4). The Review Team also received correspondence from individual Aboriginal people seeking advice or relating their experiences relevant to the Implementation Review. In these cases, the Review Team responded appropriately and took follow-up action when required.

The content of the RAJAC Regional Plans provided key information on local community issues and the strategies needed. This information was examined and supplemented the material gathered from the visits, discussions and meetings held by the Review Team during the course of the consultation process.

3.8 Consultation with the Aboriginal Community

Following the release of the Discussion Paper, extensive consultation was undertaken across Victoria during March-November 2004. The consultation approach was based on the principle that consultations with the Indigenous community members must be led and controlled by Indigenous people.

The Chairpersons and the Review Team held pre-consultation discussions with community members of the RAJAC network to ensure that Indigenous stakeholders were engaged appropriately. These preliminary discussions then enabled the Review Team to prepare the way for a fuller consultation to begin after individuals had been advised about the Review.

The RAJAC Chairpersons and Executive Officers played a significant role in the Review ensuring inclusive coverage of communities. The role of the RAJAC network in supporting the Review included:

- Assistance to ensure that the community was fully informed about the consultation process;
- Provision of regular information, including progress reports about the Review, to the community;
- Assistance in the facilitation of community meetings in each of the 6 RAJAC Regions; and
- Acting as the contact point for community members to access information and advice about the Review and the consultation process.

The Review Team was guided by the advice of the RAJAC network in relation to which local communities were visited. Advice was also sought from the RAJAC network in relation to the identification of those individuals who preferred to discuss their concerns/issues in a confidential setting outside community meetings.

The overall reaction in the Aboriginal community to the Review consultation, in spite of some negative comments ... *not another round of consultation, our community is the most consulted ...* was unexpectedly positive. The attendance and level of participation of the Aboriginal community was high and participants were able to speak openly and freely to the Chairpersons and Review Team members with the assurance that they were being listened to and what they said kept confidential. Alongside meetings with the Aboriginal community,

3.9 Other features of the Review Process

Key definitions

It was found early in the course of the Review that clarification was required for key terms used. These at times needed interpretation and were used variably by people and organisations, including government agencies. They include:

Death in Custody

A 'Death in Custody', as defined by the Royal Commission, (Recommendation 6) is a death occurring of a person:

- (a) Who is in prison custody or police custody or detention as a juvenile;
- (b) Whose death is caused or contributed to by traumatic injuries sustained, or by lack of proper care whilst in such custody or detention;
- (c) Who dies or is fatally injured in the process of police or prison officers attempting to detain that person; and
- (d) Who dies or is fatally injured in the process of that person escaping or attempting to escape from prison custody or police custody or juvenile detention (Royal Commission, 1991b, Vol. 1, 4.7.4).

However, there were Aboriginal persons who had died shortly after leaving custody, or who were, or had recently been, in contact with the criminal justice system. These instances and related issues are further discussed in Section 4 – Victorian Aboriginal Deaths in Custody.

Aboriginal status

Although perhaps clear in principle, in practice the definition of Aboriginal status can be ambiguous and complex. The definition of Aboriginality used by the Royal Commission (Royal Commission, 1991b, Vol. 2, 11.13.1) states that ... *an Aboriginal person is someone of Aboriginal descent, who identifies as such and is recognised by the Aboriginal community to be so*. The legal interpretation of Aboriginality is that persons, claiming Aboriginality, as a matter of law, be Aboriginal provided they are descended, to a degree which is not trivial, from Aboriginal people. Where this is uncertain, then factors such as community acceptance and recognition and the person's own identification as Aboriginal, could determine the issue.

The Royal Commission stated that in practice, recognition of a person by the Aboriginal community, means *being situated in a particular family and kinship network and affinity ... the proportion of Aboriginal ancestry is irrelevant, what counts is a kin connection to other Aboriginal people* (Royal Commission, 1991b, Vol. 2, 11.13.1). As noted in the Report, *in country towns, any member of an Aboriginal family is 'black' regardless of appearance* (Royal Commission 1991b, Vol. 2, 11.13.1). It is an irony that in Victoria in 2004, many non-Indigenous persons respond with disbelief to someone calling themselves Indigenous, Koori or Aboriginal if they are 'white' in appearance.

A Federal Court decision (*Shaw and Another vs Wolf and Other*, 1998: 6) by Justice Merkel examined the issue of Aboriginality and referred to a number of texts to assist and which:

... reinforce the view that Aboriginal identity cannot be assessed according to inflexible notions of what characterises an Australian or [Tasmanian] Aboriginal person. In my view, the current Australian community accepts the widely divergent and differing histories and experiences of the process

by which an Aboriginal person acquires and develops an Aboriginal identity is, inherently, a process personal to and discrete for each individual.

Accordingly, any consideration of descent, self-identification and communal recognition as factors relevant to determining whether a particular individual is an Aboriginal person must not only recognise the interaction and interdependence of these factors, but do so in the context of their particular application in relation to that person.

Inevitably there is variability in how Aboriginality is determined across government and this imposes limitations on the statistical information.

For the purposes of this Review, the terms Aboriginal, Indigenous, Koori and Koories are utilised to describe the Indigenous inhabitants of Victoria. The difficulties inherent in Indigenous self-identification for census purposes have previously been referred to. It should be noted that an under-estimation of the numbers of Indigenous people has a direct impact on service resourcing and delivery.

Community

In this Report the term community has been loosely used to refer to the different layers of social groupings of Indigenous people in Victoria, associated with identity and belonging, and reflects the way the term community commonly tends to be used by Indigenous people in Victoria. Thus for example, Indigenous people may regard themselves as a member of an extended family community, while at the same time belonging to a distinct Aboriginal group, for example, *I belong to the Yorta Yorta mob and that is who I consider to be my community.*

Similarly, community is used to refer to Indigenous people living in a specific location and also, more generally can refer to all Indigenous peoples in Victoria as a convenient collective term, while recognising the complexity of the term to refer to the multiple layers of spiritual significance, belonging and identity. The use of the term community and associated terms such as community capacity; community building, and its new centrality in many areas of social policy – a spray on solution to many social issues confronting society in 2005 – forms part of a debate that is acknowledged by this Review,⁹ and informs some of Section 5.

The historical overview of Indigenous Victorians in Appendix 6 shows the different meanings embedded in the words *community* and *Aboriginal*, and how they have been used and appropriated for different purposes. An example is the extract which concluded that in 1957 the Aboriginal population of Victoria was 1,400 as reported by the Aborigines Welfare Board. The most current demographic data indicates that in 2001 Victoria's Indigenous population was 25,079 and is expected to increase to between 33,045 and 40,134 by 2009 (see Volume 2).

The contrast between the 1957 data and the current demographic data (see Volume 2 – Statistical Information) along with the community voices, demonstrates the resilience of the Victorian Indigenous people and community. It also reflects non-Indigenous recognition of the complexities of Indigenous kinship and community, and greater awareness and

⁹ See Carson (2003), *Whole of Government and Crime Prevention for Victoria*; Bauman (2001), *Community: Seeking Safety in an Insecure World*, for further discussion of community, as well as Vinson (2004) and House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (2004), *Many Ways Forward: Report of the Inquiry into Capacity Building and Service Delivery in Indigenous Communities*.

sensitivity in recording processes. As one respondent said, referring to the pre- 1967 practice of not including Aboriginal people in official census data:

My grandfather was born and died before 1967 and he was never counted as a person (Metropolitan Melbourne).

However, as the following quotes reveal, non-Indigenous understanding of community and Aboriginality is still limited. As one Indigenous respondent said, echoing the experience of the Indigenous community:

It's not just about the colour of your skin. Too white to be black, too black to be white (Regional Victoria).

This ignorance and negativity can lead to unnecessary discord and outright racism. This Review is framed, from the outset, by the recognition that non-Indigenous Victorians need to develop greater understanding and knowledge about the Victorian Aboriginal community.

Ethical considerations

A number of ethical issues arose in the course of the Review and advice was sought in the Guidelines for Ethical Research in Indigenous Studies (Aboriginal Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), 2000). These included concerns about the Free-call telephone for prisoners – whether calls by prisoners to the Review Team were monitored by the prison authorities (Corrections Victoria gave assurances that the calls were not monitored); and how to accurately record the conversations and experiences of Aboriginal people and others without breaching confidentiality. The Review Team was particularly mindful of the very sensitive nature of some of the material that was received and which needed a high level of confidentiality. (See Appendix 7 for Prisoner Free-call number flyer).

Confidentiality undertakings were required by all Review Team members and those assisting who had access to material provided to the Review. Stringent record management procedures were put in place to ensure the material was handled and stored securely for the duration of the Review and thereafter for a period of seven years in accordance with privacy guidelines for research (Department of Justice, 2003a).

Examination of the Indigenous deaths which have occurred since the Royal Commission also raised the issue of how to respectfully and sensitively contact the families of the deceased to inform them about the Review and seek their participation.

By-products

While the end-product of the Review is a Report to the AJF and its tabling in Parliament, a number of by-products were created as part of the Review. These not only enabled the Review to proceed smoothly and effectively but also were found to be useful in their own right. Details are provided in Appendix 8.

'On-the-spot' problem solving: the Review as a dynamic change process

The Review Team was not a passive collector of information. At times during the Review, the Team was advised of 'incidents' or learned of situations requiring immediate action. One example came from the Free-call anonymous telephone line for Indigenous prisoners. A prisoner called to say, *I've been treated very badly at [prison] ... I want to see someone as soon as possible.*

In relation to monitoring the Free-call number, and in order to effectively manage these issues and ensure the safety and well-being of Indigenous prisoners, an agreement was developed between Corrections Victoria and the Review Team to immediately report any threats of self-harm or serious injury to a designated officer. The officer would then be able to identify from which prison the call had originated. In addition to this, follow-up action was also initiated by the Review Team member and contact was made with the designated Aboriginal Well-being Officer allocated to the particular prison or Indigenous Services Officer located at the prison to alert them to the potential threat of injury.

Limitations

There are a number of limitations which need to be taken into account when examining the Review's findings.

As a source of evidence on the implementation of the Recommendations, statistical information is useful in complementing the government self-assessments and community responses. However, caution needs to be exercised in its use and interpretation. Errors in statistical information can occur in the reporting, recording or processing of the data and can lead to misleading or inaccurate interpretations.

Another limitation of the data is in the variability in the identification of people of Indigenous origin, both over time and across areas. It is a widely held view by the Aboriginal community and supported by the ABS, that the Census also does not accurately reflect the true number of Aboriginal people in Victoria or Australia.

There were inevitable gaps in the Review's coverage of some of the Recommendations with the community. Further in-depth investigation would have been desirable in relation to some themes and these are identified in Sections 4-7 as Review recommendations. For some key individuals and community organisations, consultative arrangements could not be made within the timelines.

Government responses were provided in 2003 with an update provided to November 2004 and may not fully reflect the current situation. There was also, on occasion, no capacity (and for some Recommendations no information) to enable independent assessment of implementation status as reported by government departments. There were Recommendations where no state government agency had been given responsibility for responding (for example, those Recommendations that related to the Commonwealth government or to private sector organisations, and the media) and the Review was not in a position to seek this information outside state government agencies. However, there are some instances where a department/agency has provided information or commentary on Royal Commission Recommendations which may not have been allocated to them. These comments are reflected in the relevant sections.

The next section of this Review Report investigates Victorian Aboriginal deaths in custody, including deaths subsequent to the Royal Commission.

