

Enhancing Access to Justice

The Department's vision is to provide a just and equitable legal system for the people of Victoria and ensure the law keeps pace with changing community expectations.



The Attorney-General, Rob Hulls (front centre) and the Minister for Aboriginal Affairs, Gavin Jennings (back right) with Yorta Yorta elders Henry Atkinson (back left) and Elizabeth Hoffman at the historic signing of the Yorta Yorta agreement.

Supporting access and equity

The legal rights of all persons are protected through a just, responsive and accessible legal system in which the Victorian community has confidence.

The Department is committed to addressing the needs of disadvantaged groups, and works with agencies across Victoria to promote rights and respect diversity.

The Attorney-General's Justice Statement

Launched on 27 May 2004, the Attorney-General's Justice Statement is a product of close collaboration between the Department of Justice, the Victorian courts and the legal sector. The Statement details the key strategic directions for the Attorney-General's portfolio. The Statement maps out initiatives to modernise the justice system to ensure it remains flexible and responsive to change, and outlines strong measures to safeguard the rights of those who are most vulnerable.

Over 25 initiatives are outlined in the work program to be undertaken under the themes of *Modernising Justice*, *Protecting Rights* and *Addressing Disadvantage*. Key projects under the Justice Statement include the following.

- *Criminal Law and Procedure Reform* – an overhaul of criminal legislation and review of current procedures, focusing on replacement of the *Crimes Act 1958 and Evidence Act 1958*, further reforms to sentencing procedure, and possible reform of committal proceedings.
- *Civil Law and Procedure Reform* – an overhaul of the civil rules of procedure to reduce court delays, streamline litigation processes and improve consistency between jurisdictions.
- *Gateways to Justice – an Integrated Approach to Civil Disputes* – the development of an integrated policy framework for addressing legal needs with a focus on preventative, early intervention models that keep disputes out of the court system by improving legal information and advice and the choice of dispute resolution processes.
- *Modernising Courts* – the development of governance and service delivery structures that improve coordination across courts and tribunals, providing a more efficient, accessible and user-focused system, supported by appropriate systems improvements.
- *Promoting Human Rights* – the establishment of a process of discussion and consultation with the Victorian community on how human rights and obligations can best be promoted and protected in Victoria.
- *Problem Solving Courts* – providing a consistent approach to the over-representation in the criminal justice system of disadvantaged and marginalised groups.

Problem solving courts provide a new means for addressing significant rates of recidivism (re-offending), growing prison populations, and the difficulties encountered by traditional courts in responding to defendants with specific needs.

The courts attempt to address the underlying causes of criminal behaviour in order to reach an outcome that is beneficial for the defendant as well as the community.

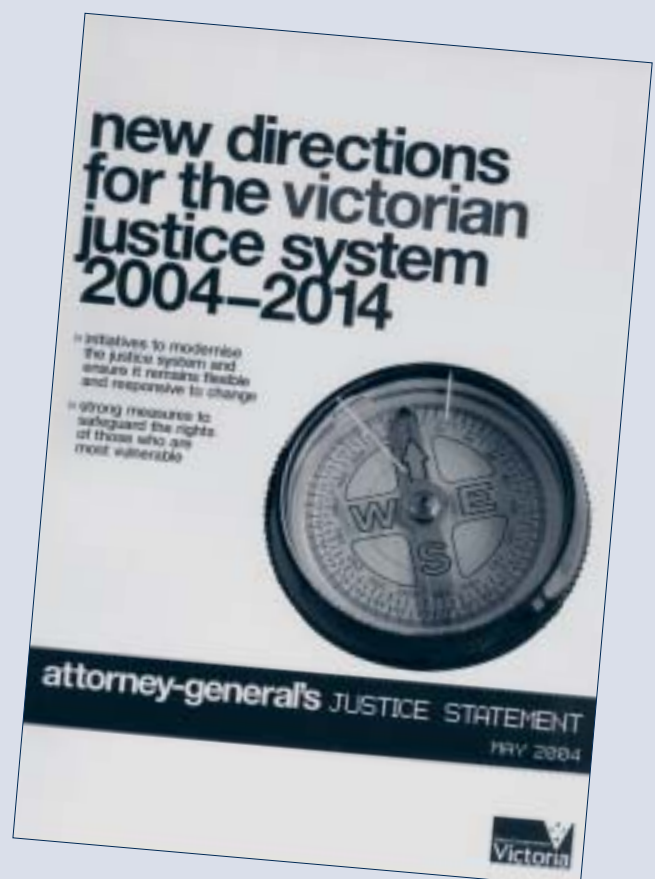
In Victoria, a number of problem solving courts and initiatives have been introduced including the Drug Court, Koori Court and a range of diversionary and support services at the Magistrates' Court of Victoria. A Family Violence Division of the Magistrates Court is also being established.

Enhancing access to justice for Koories

Achieving reconciliation within the Victorian community is a Government priority, but true reconciliation will only be achieved when there is equality of opportunity and experience between Indigenous and non-Indigenous Victorians.

Indigenous Victorians have the same rights as other Victorians, but do not experience the same justice outcomes. Koories are 13 times more likely to be imprisoned than non-Indigenous Victorians.

The Government is committed to working with the Indigenous community, the wider Victorian community and the Commonwealth Government to redress this situation.



The Attorney-General's Justice Statement is a product of close collaboration between the Department of Justice and the Victorian courts and the legal sector.

Working towards native title partnerships

The Victorian Government recognises that addressing native title claims is crucial to the reconciliation process, and aims to resolve native title claims through mediation rather than litigation.

The Department of Justice coordinates the whole-of-government approach to resolving native title claims in Victoria through compliance with the Commonwealth *Native Title Act 1993*. The Department works together with claimants to reach agreed outcomes on native title claims. The Department also assists claimants in conducting independent and internal research projects to provide proof of connection to the land.

A number of native title claims continued throughout 2003–2004. By far the most significant was the Yorta Yorta Agreement.

Landmark Yorta Yorta Agreement

In 1994, the Yorta Yorta people lodged a native title claim covering the Murray-Goulburn region of Victoria. In 2002, the Victorian Government took the unprecedented step of entering into negotiations with the Yorta Yorta while the claim was still before the courts, with the aim of reaching a negotiated agreement, regardless of the verdict.

Negotiations continued following the High Court determination in December 2002 that native title does not exist in the Yorta Yorta claim area. On 10 June 2004, an agreement was successfully reached between the Yorta Yorta Nations Aboriginal Corporation and the Victorian Government.

The landmark agreement is a positive step forward for the reconciliation process. It provides an opportunity for the Yorta Yorta community to advise the Minister for the Environment on the management of specific parcels of Crown Land which are of strong significance to the Yorta Yorta people. The Agreement has the potential to become a model for future native title agreements in Victoria.

Native title claim status

As at 30 June 2004, there were 20 native title claims in Victoria, with approximately 70 per cent of Crown Land in Victoria under native title claim. The status of the major native title claims in mediation is as follows.

Wotjobaluk

The Wotjobaluk native title claim, lodged in 1995, is the largest in Victoria. It covers almost a million hectares of Crown Land in northwest Victoria and involves 438 registered respondents, including the Commonwealth Government, local government, farmers and apiarists.

In October 2002, the Victorian Government reached a landmark in-principle agreement with the claimants. Under the agreement, the Wotjobaluk and the Government are currently seeking a Federal Court determination which recognises the Wotjobaluk's non-exclusive native title rights under the *Native Title Act 1993* to hunt, camp, fish and gather along Wimmera river reserves.

Gournditch-Mara

The Gournditch-Mara native title claim in southwest Victoria is currently undergoing a mediation process agreed to by all parties in 2002.

Northwest claims

In 2003–2004 mediation progressed in relation to seven native title claims from northwest Victoria. One of the seven claims in the region – the WadiWadi claim – was withdrawn in May 2004.

The Aboriginal Justice Agreement

Launched in 2000, the Victorian Aboriginal Justice Agreement is an ongoing initiative aimed at:

- addressing the issues of Indigenous over-representation in the criminal justice system;
- improving Indigenous access to justice services; and
- promoting a greater awareness of civil, political and legal rights.

Indigenous over-representation in the criminal justice system is a continuing issue and social and economic disadvantage remains significant – there have been seven Indigenous deaths in custody in Victoria since 1991.

A key component of the Agreement is to ensure an ongoing commitment to the implementation of the recommendations of the *1991 Final Report of the Royal Commission into Aboriginal Deaths in Custody*.

Aboriginal deaths in custody

In 2003, the Department established an Implementation Review Team to undertake a review of the implementation of the recommendations of the final report of the *Royal Commission into Aboriginal Deaths in Custody*. A Wurundjeri elder, Adjunct Professor Joy Murphy and a Gunditjmarra man Dr Mark Rose have been appointed to lead the review. Extensive community consultation was undertaken from March to June 2004, with the report being further developed through 2004–2005.

Six Regional Aboriginal Justice Advisory Committees facilitate local implementation of the Aboriginal Justice Agreement and promote Reconciliation between local Koori communities, justice agencies and the wider community.

The role of the committees is to develop locally based Social Justice Plans to respond to local issues and to develop Reconciliation processes. In 2003–2004, plans for four of the committees were launched, with another nearing completion. These plans will be consolidated into a single statewide action plan that will form part of the Department of Justice annual planning instruments.

Supporting access and equity continued

Koori court

Established as part of the Aboriginal Justice Agreement, the new Koori court in Warrnambool and the first two pilots at the Shepparton and Broadmeadows Magistrates' Courts, aim to reduce the over-representation of Indigenous people in the criminal justice system.

The Koori courts deal with charges that can be heard in a magistrates' court, except for certain family violence matters and sexual offences, and where the defendant has pleaded guilty and agreed to join in the Koori court proceedings.

The courts provide a less formal setting than traditional magistrates' court proceedings. Indigenous elders or other respected persons sit with the presiding magistrate at the table, together with the offender and family member, the Koori Justice worker, defence counsel, prosecutor and a Community Corrections Officer. Offenders are encouraged to examine the consequences of their behaviour from the perspective of their community as well as the law.

Development of a Koori Childrens' Court is expected to occur in 2005, in line with the aims of the Attorney-General's Justice Statement.

The Koori court initiative is undergoing evaluation by LaTrobe University, however preliminary indications suggest that the courts are proving successful. A final report will be presented to the Department in 2004–2005.

Aboriginal Liaison Program

Now in its second year of operation, the Aboriginal Liaison Officer based at the Magistrates' Court of Victoria assists participants with social, family and personal issues. The program also facilitates access to a number of support and rehabilitation opportunities.

Since the commencement of the Aboriginal Liaison Program, the service has been used by offenders, their families, legal representatives and the judiciary. Around 300 individuals were assisted throughout the 2003–2004 financial year.

Reducing re-offending

During 2003–2004, significant progress was made on initiatives to reduce re-offending among Koori prisoners and offenders, including the following:

- an additional Aboriginal Official Visitor was appointed by the Minister for Corrections, André Haermeyer, to visit and report on Indigenous issues in Victorian prisons;
- a site was purchased south of Euroa in central Victoria to construct a 20-bed Indigenous Adult Residential Diversion Program facility; and
- six Indigenous Community Corrections Officers were recruited to provide more culturally appropriate supervision and management of Koori offenders. These officers commenced duties in late 2003.

Other initiatives undertaken in 2003–2004 included.

- Reconciliation Week from 26 May to 2 June – recognising significant events such as the 1967 Referendum acknowledging citizenship rights for Indigenous Australians, the Mabo decision, and the findings of the Royal Commission into Aboriginal Deaths in Custody;
- Urban Dreaming Recovery – using music therapy to assist the recovery of a group of Koori men and women from drug and alcohol addiction;
- Kids and Chroming – addressing the practice of inhalant abuse by young Indigenous people in the Swan Hill area;
- Wanderers Project Ballarat – aiming to build the resiliency and decision making skills of young Indigenous people of the Ballarat region and reduce their involvement in drugs, alcohol and other inappropriate behaviours;
- Working with Indigenous consumers to identify emerging consumer and tenancy problems faced by their communities; and
- Koori Night Patrol – community volunteers on the night patrol bus transport Koori youth from public areas or local discos and pubs to a safe place – removing them from risky situations that could result in police arrests.

Lake Tyers Community Renewal Project

The Department is leading the development of a community renewal plan in partnership with the community and Government agencies to improve the long-term social and economic well-being of the Lake Tyers community. It is anticipated that this plan will be finalised with implementation to begin during 2004–2005.

Established in February 2004, the ten-year project is bringing together the local Koori community with the Departments of Justice, Human Services, Education and Training, Department for Victorian Communities, Victoria Police, commonwealth agencies and local government.

Consumer awareness

In 2003–2004 the Department, through Consumer Affairs Victoria (CAV), made more than 150 community visits across Victoria, including Geelong, Warrnambool, Portland, Halls Gap and Horsham and worked with Indigenous communities to improve their capacity to recognise consumer rights, to raise awareness of reporting processes in relation to businesses that are engaging in unfair trading practices, and to identify emerging consumer and tenancy problems.

Information sessions on consumer credit, a significant emerging issue, were conducted in Bendigo and at the Gunditjimarra Aboriginal Cooperative in Warrnambool. In partnership with the Energy and Water Ombudsman of Victoria, CAV also undertook an extensive seminar program, visiting Indigenous communities across Victoria to raise awareness of utility issues such as disconnection and billing complaints.

Koories working at Justice

Wur-cum barra, the Victorian Public Sector Indigenous Employment Strategy, aims to improve the diversity and responsiveness to Indigenous issues by increasing Indigenous employment across the public sector. The Department is committed to increasing the number of Indigenous staff it employs and to developing their career pathways. In 2003–2004, the Department employed 46 Indigenous people and won Office of the Public Employment Awards for three of its Indigenous programs – the Koori Staff Support Network, the Koori Tertiary Scholarship Program and the Gateways to Justice Program.

The Koori Staff Support Network creates a network for peer support and personal development. The new Meeting Ground website links Koori staff and their colleagues with access to support, training and career advice. A Koori Conference was held in May 2004 to provide an opportunity for Indigenous staff and volunteers working in areas such as the Koori courts, community justice panels and Koori mediation to strengthen statewide networks.

The Koori Tertiary Scholarship Program aims to increase the number of Koori people with qualifications employed within the justice system. Four scholarships were awarded in 2003–2004, bringing the total number of scholarships awarded to 20. A further two scholarship holders completed their courses and were admitted to practise as legal practitioners.

In 2003–2004, under the Gateways to Justice Program, 7,000 calendars profiling Indigenous Australians working in the justice system were distributed across Victoria to community organisations, Koori education officers, universities, TAFEs, Job Network organisations and employers. To coincide with the calendar's release, the Department held six *Create Your Future* job fairs which attracted around 1,100 attendees, including 800 Indigenous students.

Enhancing access to justice for culturally and linguistically diverse communities

With nearly 25 per cent of Victorians born outside Australia, culturally and linguistically diverse communities (CALD) are an important part of Victoria's vibrant and dynamic culture. Nearly one in five, or over 900,000 Victorians speak a language other than English at home. Ensuring these communities can confidently access the justice system promotes Victorian values of diversity and equality of opportunity.

Many newly arrived immigrants and refugees are from non-English speaking backgrounds and are not familiar with the culture and processes of Government. The Victorian Government is committed to supporting newcomers as they face the challenge of re-establishing their lives in a new country.

The Department manages an extensive program to ensure access to justice for CALD communities.

Seventeen culturally and linguistically diverse mediators were among the 25 people who completed the Alternative Dispute Resolution training course. Many of the graduates are pictured here on graduation day with the Attorney-General at the Golden Dragon Museum in Bendigo.



Supporting access and equity continued

CALD mediators and community educators

In 2003–2004, 17 new mediators from Victoria's culturally and linguistically diverse communities joined the 160 gazetted mediators already on the statewide panel of the Dispute Settlement Centre of Victoria. These mediators broaden the accessibility of the service through their understanding of culture and language.

The new mediators, who were selected on the basis of their communication and life skills as well as cultural background and ties to their communities, completed an intensive six-day course on dispute related issues.

The mediators come from a wide range of backgrounds including Arabic, Cambodian, Croatian, Chinese, Greek, Horn Of Africa, Jewish, Italian, Macedonian, Spanish, Ugandan, Vietnamese and Turkish.

Refugees

World Refugee Day is an expression of solidarity with refugees as well as a celebration of the extraordinary courage and perseverance of refugees who have been displaced and lost everything.

In recognition of the importance of World Refugee Day, the Department of Justice hosted a forum in June 2004 to discuss international conventions and the law in relation to Australia's treatment of refugees. The forum featured guest speakers, including the Attorney-General, Rob Hulls and Professor Robert Manne of LaTrobe University. Refugees from Iran and Afghanistan also shared their personal experiences of living in Australia.



Sharifa Fayazi recounts her personal story at the World Refugee Day Forum in June.

The Department also engaged bilingual community educators for groups including Arabic, Cantonese, Mandarin, Somali and Turkish-speaking communities and provided culturally appropriate information for new arrivals about renting a home.

In 2003–2004, over 80 information sessions on consumer issues were conducted across Melbourne, Ballarat, Bendigo, Cobram, Geelong, Morwell, Shepparton and Warragul in languages including Albanian, Arabic, Greek, Italian, Russian, Sudanese and Vietnamese.

Multicultural Justice Directory

The *Multicultural Justice Directory* was launched in November 2003 and aims to improve access to information for communities with non-English speaking backgrounds. Available in both hardcopy and online, the directory provides information about Department of Justice services and the broad range of services provided by the community sector.

The Directory has been translated into Turkish, Arabic, Vietnamese and Somali as these communities have been identified as the most in need of information about justice services and programs. More than 2,000 hardcopies have been distributed to stakeholders across Victoria. This is the first time such information has been available in such a comprehensive and accessible format.

Cultural Diversity Project

In 2002, the Cultural Diversity Project commenced. The project researches the perceptions of justice by CALD communities and looks at how these communities interact with the justice system. In 2003–2004 the Department undertook preliminary research with Arabic, Northern African, Turkish and Vietnamese communities and newly arrived refugees for whom access to justice was seen as an acute problem.

An initial report was produced in late 2003, and will inform the development of the Department's cultural diversity plan, which is expected to be completed in 2004–2005.

Enhancing access to justice for women

The five-year *Women's Safety Strategy* is a whole-of-government strategy, aimed at improving women's safety by reducing the level and fear of violence against women in the community. The Department is responsible for a number of key initiatives under the strategy, including the introduction of legislation targeting the sexual servitude of women, reform of services for victims of crime, drink spiking and community awareness campaigns.

Family violence

Preventing and reducing family violence is a priority issue under the *Women's Safety Strategy*, and in November 2002 the Victorian Government allocated \$5.2 million over four years to establish a Family Violence Division in the Magistrates' Court of Victoria. The Family Violence Division is designed to enhance the safety of people most affected by family violence, particularly women and children. The Division aims to provide a more coordinated and integrated response from the criminal justice system to family violence issues.

2003–2004 has seen extensive planning and development of the Family Violence Division with the implementation phase expected to begin in early 2005 at Heidelberg Magistrates' Court and Ballarat Magistrates' Court.

Men's behaviour change programs

The development of the men's behaviour change pilot project continued in 2003–2004. The project will involve the Family Violence Division of the Magistrates' Court directing men who are subject to an intervention order to attend eligibility assessment and if suitable, attend a men's behaviour change counselling program. Support services will also be provided to partners and children of these men.

Enhancing access to justice for those with a disability

It is estimated by the Department of Human Services that 18 per cent of people in Victoria have some form of physical or intellectual disability ranging from mild to profound, and that over 25 per cent of people with a disability live below the poverty line. Research about people with intellectual disabilities and acquired brain injuries shows high levels of over-representation in the criminal justice system.

The Department is also currently developing a Disability Action Plan in response to the particular issues facing people with a disability.

Key initiatives undertaken in 2003–2004 to enhance access to justice for those with a disability include:

- a disability forum;
- a 'special circumstances list', assisting people who suffer physical or intellectual disabilities or a diagnosed mental illness by withdrawing infringement notices such as parking fines or referring them to a magistrate if considered appropriate; and
- the launch of a number of CD-ROMs to enhance access to legislation for the visually impaired.

Enhancing access to justice for young people

Protecting rights

In Victoria, there have been a number of instances of unauthorised photographs of young people (such as schoolboys in rowing attire) being posted on websites containing links to inappropriate websites. In 2003–2004, the Attorney-General Rob Hulls, through the Standing Committee of Attorney's-General (SCAG), established a working party to explore the adequacy of existing laws and develop options for addressing concerns.

A discussion paper for the consideration of SCAG is currently being drafted examining this issue, including topics such as protecting children from harm, existing state, federal and international laws and options for reform.

The Department is developing a Disability Action Plan to enhance access to Justice for those with a disability.

