



## Royal Commission into Aboriginal Deaths in Custody Recommendation

### 2. Establish an independent Aboriginal Justice Advisory Committee

*That subject to the adoption by governments of this recommendation and the concurrence of Aboriginal communities and appropriate organisations, there be established in each State and Territory an independent Aboriginal Justice Advisory Committee to provide each Government with advice on Aboriginal perceptions of criminal justice matters, and on the implementation of the recommendations of this report. The Aboriginal Justice Advisory Committee in each State should be drawn from, and represent, a network of similar local or regionally based committees which can provide the State Advisory Committee with information of the views of Aboriginal people. It is most important that the views of people living outside the urban centres be incorporated. The terms of reference of each State, local or regional Advisory Committee is a matter to be negotiated between governments and Aboriginal people. The Commission suggests however that matters which might appropriately be considered include, inter alia:*

- a) The implementation of the recommendations of this report, or such of them as receive the endorsement of the Government;*
- b) Proposals for changes to policies which affect the operation of the criminal justice system;*
- c) Programs for crime prevention and social control which enhance Aboriginal self-management and autonomy;*
- d) Programs which increase the recruitment of Aboriginal people to the staff of criminal justice agencies; and*
- e) The dissemination of information on policies and programs between different agencies, and between parallel bodies in different States.<sup>1</sup>*

<b>Background<sup>2</sup></b>	<p>The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) emphasised that matters of the criminal justice system were very much matters for the states and territories. In these areas many of the recommendations were quite detailed, and as they were areas of ongoing concern, new problems would inevitably develop.</p> <p>To successfully implement the recommendations, the RCIADIC recommended the establishment of an independent Aboriginal Justice Advisory Committee (AJAC) in each state and territory to capture the views of Aboriginal people and advise governments on implementation of recommendations. To accurately reflect the opinions of all Aboriginal people, each AJAC should include a group of regionally based members to reflect the views of people who live in regional areas.<sup>3</sup></p>
<b>Intent</b>	Establish an independent Victorian AJAC with regional and local representation to provide government with Aboriginal perspectives on justice matters.
<b>Responsibility</b>	All state and territory governments.

<sup>1</sup> Royal Commission into Aboriginal Deaths in Custody (Final Report, 1991) vol 1, 31 ('RCIADIC').

<sup>2</sup> Ibid 30–1.

<sup>3</sup> Ibid.

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### Key contact

Koori Justice Unit, Department of Justice and Community Safety (DJCS).

### Key Action Taken

#### 2005 Review<sup>4</sup>

The Department of Justice assessed Recommendation 2 as **fully implemented**.

#### **Victorian Aboriginal Justice Advisory Committee**

The Victorian Aboriginal Justice Advisory Committee (VAJAC) was a leading community player at the 1997 Ministerial Summit on Indigenous Deaths in Custody. A broad commitment towards jurisdictional justice plans was a key outcome of this meeting and provided the basis for development of the Victorian Aboriginal Justice Agreement (AJA).

As a direct response to the principles of this recommendation and broader recognition that Aboriginal people are best placed to address issues in their own communities, the VAJAC played an integral role in the AJA's development, participating at all key stages, promoting its potential, and providing direct advice on drafts. The degree of this involvement was reflected in the AJA, where the chairperson of the VAJAC was among the Aboriginal community signatories, alongside those who were, at that time, the most senior elected representatives from the Aboriginal and Torres Strait Islander Commission (ATSIC).

Following the launch of the AJA in 2000, the VAJAC continued to play a key role in implementation of its principles and initiatives. Specifically, this included representation on the Aboriginal Justice Forum (AJF) through its chairperson; membership of the Melbourne Metropolitan Regional Aboriginal Justice Advisory Committee (RAJAC); and access to a range of justice agencies and business units. The VAJAC received its primary funding from Commonwealth sources. The Victorian Government assisted by providing funds to employ a research officer over a fixed term period, under the Community Initiatives Program.

#### **Regional Aboriginal Justice Advisory Committees**

The development of the Regional Aboriginal Justice Advisory Committee (RAJAC) Network was a core initiative of the AJA and a direct response to Recommendation 2. The RAJAC Network was established in 2001 and initially comprised six regional committees across Victoria, in addition to and independent of the VAJAC. At the time of the 2005 Review, there were committees covering Barwon South West, Grampians, Gippsland, Hume, Loddon Mallee, and Metropolitan Melbourne.

Each RAJAC consisted of representatives from Aboriginal community organisations responsible for delivery of justice-related services, and representatives from relevant Victorian Government agencies, the Aboriginal and Torres Strait Islander Commission, and local government. Victorian Government agencies typically represented on RAJACs included Victoria Police, Community Corrections, Magistrates' Court, Juvenile Justice and the Sheriff's Office. Due to efforts to increase Aboriginal community participation, particularly among young people, some RAJACs also included Aboriginal youth representatives.

<sup>4</sup> Aboriginal Justice Forum (Vic), Department of Justice (Vic), *Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody* (Review Report, October 2005) vol 1, 683-4 ('2005 Review').

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	<p>Each RAJAC was chaired by a community member selected by their peers and supported by a full-time executive officer. The key tasks of the executive officer position included providing secretariat support, ongoing development and negotiating of the implementation of regional plans and contributing to the development of the state-wide AJAs.</p> <p><b>Review Team</b></p> <p>The Review Team applauded the above partnership developments regarding Aboriginal engagement on criminal justice matters but noted ambiguity around their role in providing input on broader issues of social disadvantage. It was not clear what part, if any, these bodies would play in the development of a broader statewide Aboriginal affairs framework, and in the evaluation processes related to its key strategic projects, despite the Royal Commission’s emphasis on the wider social ramifications of its findings. The Review noted the need for clarification of the intersection between the functions of Aboriginal justice bodies and other state-wide Aboriginal bodies (such as the Premier’s Aboriginal Advisory Committee) in the development of an integrated approach to addressing Aboriginal socio-economic disadvantage.<sup>5</sup></p>
<p><b>2018 Review<sup>6</sup></b></p>	<p>Deloitte concluded that Recommendation 2 was <b>fully implemented</b> in Victoria through the establishment of Aboriginal justice advisory committees which provided advice on the implementation of RCIADIC recommendations and continued to provide advice to the Victorian Government. From their establishment, the RAJACs were a key link in the partnership between the government and Aboriginal community.</p>
<p><b>Since then</b></p>	<p><b>Aboriginal Justice Caucus</b></p> <p>Membership of the AJF expanded over time to include additional Aboriginal community representatives. Collectively the Aboriginal community partners to the AJA became known as the Koori Caucus and in more recent years the Aboriginal Justice Caucus (AJC).</p> <p>As described in Burra Lotjpa Dungaludja (AJA4) the purpose of the AJC is to be a connection between the Aboriginal community and the justice system.<sup>7</sup> The AJC provides leadership, advocacy and drives continuous change to address the drivers of offending as well as system and programmatic reform within the criminal justice system.</p> <p>The AJC is guided by values and principles which ensure that we:</p> <ul style="list-style-type: none"> <li>• Ground our work in Aboriginal cultural protocols</li> <li>• Advocate for the Aboriginal community</li> <li>• Provide a fearless community voice that leads to community driven change and inspires the community to be self-determining</li> <li>• Lead, influence and negotiate change</li> <li>• Continue to work in partnership with our stakeholders</li> </ul>

<sup>5</sup> Ibid vol 1, 705.

<sup>6</sup> Deloitte Access Economics, Department of Prime Minister and Cabinet, *Review of the Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody* (Report, August 2018) 14 ('2018 Review').

<sup>7</sup> Department of Justice (Vic), *Burra Lotjpa Dungaludja: Victorian Aboriginal Justice Agreement Phase 4* (Agreement, 2018) 10 ('AJA4').

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- Analyse issues across the state
- Make well informed decisions
- Are informed and active
- Discuss issues, share ideas, local expertise and experience, problem solve and develop a common view of key issues.<sup>8</sup>

The AJC comprises the Aboriginal signatories to Burra Lotjpa Dunguludja, chairpersons of each of the nine RAJACs, representatives from statewide Aboriginal justice programs, Aboriginal peak bodies and Aboriginal community-controlled organisations.

### **Regional Aboriginal Justice Advisory Committees**

The structure and evolution of the RAJAC Network focused on the broad advisory and monitoring role originally recommended by the RCIADIC. RAJACs have been encouraged to develop processes and approaches which are reflective of the needs and aspirations of their members and the communities they represent. This is reflected in the frequency and locations of meetings, matters on the agenda, and most importantly, strategies employed to advance justice-related issues.

## Evidence of impact

### **Authorising Document**

### **Framework of Operations – Regional Aboriginal Justice Advisory Committee and Local Aboriginal Justice Action Committee, 2021**

The RAJACs are instrumental in developing and maintaining strong partnerships and plans between Aboriginal communities and justice agencies under the AJA. They play an important role in building community participation and involvement in AJA related work, advocating for program and service changes to improve justice outcomes, providing advice and expertise in the development and implementation of place-based initiatives, and ensuring regional issues are raised and responded to via the AJF.

The role and responsibilities of RAJACs are to:

- act as the conduit between the regional Aboriginal community and DJCS on key issues relating to Aboriginal justice, respectfully and appropriately facilitating the flow of information
- maintain regular communication and engagement with the Aboriginal community and government and community sector stakeholders to identify key justice issues and work in partnership to address these
- advocate for and promote justice and other related initiatives to improve Aboriginal justice outcomes to both Aboriginal communities and government agencies
- develop and implement Regional Justice Action Plans that address the over-representation of Aboriginal people in the justice system

<sup>8</sup> 'Aboriginal Justice Caucus', Victorian Aboriginal Justice Agreement (Web Page, 14 August 2023) <<https://www.aboriginaljustice.vic.gov.au/aboriginal-justice-caucus>> ('Aboriginal Justice Caucus').

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- promote, participate in, and provide advice to cross-agency and partnership forums, such as the AJF, or other related regional Aboriginal advocacy groups
- monitor and comment on Aboriginal contact with the justice system at a regional level
- participate in grant funding processes for Aboriginal justice-related programs as appropriate
- aide in the successful delivery of programs and initiatives under the AJA
- maintain good governance and operations according to the Framework of Operations
- promote and support the LAJACs (where established), providing advocacy for them at the regional level.<sup>9</sup>

### Outputs

#### **Victorian Aboriginal Justice Advisory Committee<sup>10</sup>**

The VAJAC was first established in 1993 to consider matters that included:

- the implementation and monitoring of RCIADIC recommendations
- proposals for changes to policies, programs and procedures which affect the operation of the criminal justice system
- crime prevention programs which enhance Aboriginal self-management and autonomy
- measures which increase the positive involvement of Aboriginal people in the programs and staffing of justice agencies
- proposals for police and programs which affect the criminal justice system and are of significance either at a national level or to other state and territories in addition to Victoria
- development of mechanisms for enhancing community awareness of needs and aspirations of Aboriginal people in Victoria, focusing on justice issues.

Membership of the Committee comprised two nominees of a statewide community meeting, the ATSIC Victorian Commissioner, Victorian State Manager, and Chairs of the Victorian Regional Councils as well as representatives of Aboriginal statewide organisations: Victorian Aboriginal Legal Service; Victorian Aboriginal Community Services Association Limited; Victorian Aboriginal Child Care Agency. The Committee also included representatives from the Department of Justice and Aboriginal Affairs Victoria.

The Aboriginal Justice Caucus now comprises the Aboriginal signatories to Burra Lotjpa Dunguludja, chairpersons of each of the nine RAJACs, representatives from statewide Aboriginal justice programs including community justice panels, independent prison visitors and the Dhelk Dja Koori Caucus, and representatives from these Aboriginal organisations: Aboriginal Housing Victoria, Djirra, Koorie Youth Council, Victorian Aboriginal Child and Community Agency, Victorian Aboriginal Community Controlled Health Organisation, Victorian Aboriginal Education Association Incorporated, and the Victorian Aboriginal Legal Service.

<sup>9</sup> Koori Justice Unit, Department of Justice and Community Safety (Vic), *Framework of Operations - Regional Aboriginal Justice Advisory Committee and Local Aboriginal Justice Action Committee* (Framework of Operations, 2021) ('Framework of Operations - RAJAC & LAJAC').

<sup>10</sup> Aboriginal Affairs Victoria, Department of Health and Community Services, *Royal Commission into Aboriginal Deaths in Custody Victorian Government 1994 Implementation Report* (Report, 1995) ('Victorian Government 1994 Implementation Report').

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	<p><b>Framework of Operations – Regional Aboriginal Justice Advisory Committee and Local Aboriginal Justice Action Committee</b></p> <p>While the roles and responsibilities of RAJACs don't explicitly refer to the RCIADIC recommendation (as per part a) of this recommendation), they broadly cover 'key issues relating to Aboriginal justice' which address parts a) to e) of Recommendation 2.</p>
<p><b>Outcomes</b></p>	<p><b>AJA3 Evaluation</b></p> <p>The evaluation of AJA3 found the AJA partnership has reached a level of maturation not replicated elsewhere. It has been instrumental in effecting real change in terms of embedding cultural awareness and the adoption of an Aboriginal lens for the development of new strategies, policies and initiatives. It has facilitated and enabled the development of strong and durable relationships between agencies and with members of the Victorian Aboriginal community. The partnership has evolved and there are now high levels of trust between the partners. This has not led to complacency on the part of any of the partners, and there remains a high demand for accountability and action.</p> <p><b>Strong local leadership</b></p> <p>The effectiveness of the AJA and in particular the RAJAC and LAJACs is contingent upon the strength and passion of individual members. This includes strong leaders from both the community and government. Involving the RAJACs and LAJACs in setting priorities also allows for prioritisation according to community strengths so that programs have the greatest chance of success.<sup>11</sup></p>
<p><b>Community Views</b></p>	<p><b>Yoorrook Justice Commission</b></p> <p><i>The Aboriginal Justice Caucus has worked in partnership with successive governments for more than 22 years, with the aim of preventing the imprisonment of First Peoples and deaths in custody, and improving the lives of First Peoples, families and communities across Victoria. The achievements of the Aboriginal Justice Caucus are important, not only in terms of advocacy, programs and initiatives, but also in the work they have done to progress reforms in criminal justice institutions.<sup>12</sup></i></p> <p><b>Place-based Evaluation of the Aboriginal Justice Agreement (Phase 3)</b></p> <p><i>Partnerships created through the RAJAC/LAJAC are helping to create a sense of ownership at the local level. RAJACs facilitate the participatory identification of needs and the development of plans to address those needs. Because they are part of, and own, the plan, local community organisations and groups and government agencies are motivated to contribute to its success. Involving the RAJACs/LAJACs in setting priorities</i></p>

<sup>11</sup> Department of Justice and Regulation (Vic), *Evaluation of the Aboriginal Justice Agreement Phase 3: Summary of Findings* (Report, 11 May 2018) ('Summary of Evaluation of AJA3'). 2.

<sup>12</sup> Yoorrook for Justice: Report into Victoria's Child Protection and Criminal Justice Systems, *Yoorrook Justice Commission* (Report, August 2023) 82 ('Yoorrook for Justice').

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also allows for prioritisation according to community strengths so that programs have the greatest chance of impact and success.<sup>13</sup>

### Related recommendations

None identified.

### Assessment Summary<sup>14</sup>

The intent of Recommendation 2 was to provide government with regional and local Aboriginal perspectives on justice matters. Action taken fully aligns with the intent of this recommendation. Some Aboriginal Justice Caucus (AJC) members felt the current Aboriginal justice advisory structures exceeded what was originally envisioned in this recommendation.

There is a clear link between action taken and outcomes. The establishment of local, regional and statewide Aboriginal justice advisory committees fulfils the recommendation's requirements.

This recommendation remains highly relevant, with Local Aboriginal Justice Action Committees (LAJACs), Regional Aboriginal Justice Advisory Committees (RAJACS) and the AJC continuing to play a vital role as a conduit between the Aboriginal community and the criminal legal system.

This work includes advising governments on Aboriginal perceptions of criminal legal matters, driving system reforms and changes to laws and policies which affect operation of the criminal legal system, developing programs and initiatives that enhance Aboriginal decision-making and progress self-determination, and continuing to advocate for implementation of RCIADIC recommendations.

*Aboriginal self-determination has always been central to the work that the Caucus does, and we continue to advocate for government to transfer power, control and resources to Aboriginal community, so that we can have a truly Aboriginal led justice system.*

*Aboriginal led decision making is critical, and a self-determination model is needed to be flexible and able to adapt... according to the Community's needs and resources. (Chris Harrison, Co-chairperson, AJC)<sup>15</sup>*

<sup>13</sup> Clear Horizon Consulting, *Place-Based Evaluation of the Aboriginal Justice Agreement (Phase 3)* (Report, 10 June 2018) 120 ('AJA 3 Place-based Evaluation').

<sup>14</sup> Meeting with Aboriginal Justice Caucus (Project Team, In person, 10 November 2023) ('*Aboriginal Justice Caucus Meeting (10 November 2023)*'); Meeting with Aboriginal Justice Caucus Working Group (Project Team, In Person, 19 September 2023) ('*Working Group Meeting (19 September 2023)*').

<sup>15</sup> Transcript of Proceedings, *Transcript of Day 3, Hearing Block 4 - Public Hearings* (WUR.0004.0003.0098, Yoorrook Justice Commission, Professor Eleanor Bourke (Chair), Ms Sue-Anne Hunter (Commissioner), Distinguished Professor Maggie Walter (Commissioner), Mr Travis Lovett (Commissioner), 3 March 2023) ('*Transcript of Day 3, Hearing Block 4 - Public Hearings*').

## Assessment of RCIADIC Recommendation 2

**Is the intent of the recommendation accurately described?**

Yes  No

**Does the action taken align with the intent of the recommendation?**

0 – No action taken

1 – Action taken is of little relevance to the intent of the recommendation

2 – Action taken partially aligns with the intent of the recommendation

3 – Action taken fully aligns with the intent of the recommendation

3

(Score out of 3)

**Is there evidence of the desired impact or outcome/s?**

0 – No evidence

1 – Evidence of output rather than outcome

2 – Some evidence action contributed to outcome/s

3 – Clear link between action and impact or outcome/s

3

(Score out of 3)

**How relevant is the recommendation in the current context?**

0 – No relevance – refers to practices, agencies or laws that no longer exist

1 – Low – some relevance, but most aspects of the recommendation no longer apply

2 – Moderate – remains relevant, but some aspects of recommendation no longer apply

3 – High – entirely relevant to current context

3

(Score out of 3)

**Does full implementation have the potential to reduce incarceration, increase safety in custody and/or progress Aboriginal self-determination?**

0 – No potential to improve Aboriginal justice outcomes

1 – Low – potential to improve Aboriginal justice outcomes, but none of the three identified

2 – Moderate – potential to progress one or two of the outcomes identified

3 – High – potential to reduce incarceration AND increase safety in custody AND self-determination

3

(Score out of 3)

### Potential actions for further work

#### Local Aboriginal Justice Action Committee Project Officers

Create additional Local Aboriginal Justice Action Committee (LAJAC) Project Officer roles to support local engagement on justice and other issues and further support the operation of Regional Aboriginal Justice Advisory Committees (RAJACs).

### Moderate priority for further work

#### Relevance and potential impact

		Low (0-2)	Moderate (3-4)	High (5-6)
Extent of action taken and evidence of outcomes	High (5-6)			Rec 2
	Moderate (3-4)			
	Low (0-2)			

## Bibliography

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- Yoorrook for Justice: Report into Victoria's Child Protection and Criminal Justice Systems, *Yoorrook Justice Commission* (Report, August 2023)