



Royal Commission into Aboriginal Deaths in Custody Recommendation

3. Secretariat for Aboriginal Justice Advisory Committee

The Commission notes that some of the recommendations of this report, particularly those relating to the custodial environment, are particularly detailed. The monitoring of the implementation of recommendations could only be carried out in close liaison with the authorities responsible for implementing them. In order to ensure that the State Aboriginal Justice Advisory Committee is able to give informed advice to the Attorney-General or Minister for Justice, it should be assisted by a small Secretariat, staffed by people with knowledge of Aboriginal interactions with the criminal justice system. The role of the Secretariat should be to provide information to the Advisory Committee, assist it in the development of policy proposals, and liaise on behalf (and at the direction of) the Committee with other agencies. The Secretariat should be located within the Department of Attorney-General or Minister for Justice but be accountable to the Advisory Committee on terms to be negotiated between government and Aboriginal people but with the maximum degree of autonomy from government as may be consistent with it fulfilling its function to assist the Advisory Committee to give informed, independent advice to government.¹

Background²	<p>The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) emphasised the importance of establishing 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.</p> <p>The RCIADIC recommended a Secretariat be formed to create a strong connection between the AJAC and the Attorney-General or Minister for Justice or their equivalent in each jurisdiction. By forming this connection, the Commission intended for the Secretariat to act as a negotiator between the two bodies and to monitor implementation of recommendations.</p>
Intent	Form a Secretariat to support the AJAC.
Responsibility	All state and territory governments.
Key contact	Koori Justice Unit (KJU), Department of Justice and Community Safety (DJCS).
Key action taken	
2005 Review³	<p>The Department of Justice assessed Recommendation 3 as fully implemented.</p> <p>Victorian Aboriginal Justice Advisory Committee</p> <p>Both the Victorian Aboriginal Justice Advisory Committee (VAJAC) and Regional Aboriginal Justice Advisory Committees (RAJACs) provided detailed advice to government on a range of</p>

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

² Ibid 26-30.

³ 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) 688-91, 705 ('2005 Review').

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justice issues. The structure of both entities enabled this process to be independent and reflective of Aboriginal community views and needs.

The VAJAC had a key role in the monitoring of RCIADIC recommendations. Its membership included peak Victorian Aboriginal community organisations, thus enabling it to advise on issues which contributed to the over-representation of Aboriginal people in the criminal justice system. This role was demonstrated in several policy arenas including development and launch of the Aboriginal Justice Agreement (AJA), program and policy development, monitoring, and advocacy through the Aboriginal Justice Forum (AJF). In line with the preference of its Aboriginal community stakeholders, the VAJAC Secretariat operated from the Victorian Aboriginal Community Services Association Limited (VACSAL).

Through the AJF, the VAJAC Chairperson sat at the table with the Parliamentary Secretary, Justice, and the Secretaries of the Departments of Justice, Human Services, and Education and Training.

Regional Aboriginal Justice Advisory Committee

Each RAJAC had a secretariat consisting of an executive officer employed by the Department of Justice. Each executive officer received broad support and was managed by the Indigenous Issues Unit in the Department of Justice. Duties of RAJAC executive officers included:

- Provide key support and secretariat services to their respective RAJAC
- Develop cross-agency linkages for the RAJAC and assist in facilitating leadership among Aboriginal community justice agencies
- Assist in the development, implementation and monitoring of a regional plan
- Represent the RAJAC on justice-related forums at officer level
- Report to the RAJAC and Indigenous Issues Unit monthly
- Develop, under the direction of the RAJAC, reports on regional implementation of RCIADIC recommendations and AJA related initiatives.

All executive officers were Aboriginal people with knowledge of the criminal legal system from both a local and state-wide perspective. They all had linkages with Aboriginal communities in their respective regions.

The Review also observed that if its proposal for the appointment of an independent Commissioner for Aboriginal Social Justice was accepted, it would be necessary to provide an appropriate level of administrative and expert assistance for the performance of its functions.

2018 Review⁴

Deloitte concluded that Recommendation 3 was **fully implemented** in Victoria through the secretariat to the Aboriginal Justice Caucus (AJC) and ongoing arrangements to support the Aboriginal community to provide input into Aboriginal justice policies and programs.

Deloitte noted that the AJF,

brings together leaders in the Aboriginal community and the most senior government representatives of the Justice, Health and Human Services, and Education departments.

⁴ 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) ('2018 Review').

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It operates as the peak coordinating body responsible for overseeing the development, implementation and direction of the AJA.

Aboriginal community representation at the AJF included RAJAC chairpersons and senior representatives from key Aboriginal community organisations and peak bodies (Aboriginal Housing Victoria, Victorian Aboriginal Legal Service, Victorian Aboriginal Child Care Agency, Victorian Aboriginal Community Controlled Health Organisation, Victorian Aboriginal Education Association Incorporated, Koorie Youth Council). The Aboriginal community members of the AJF made up the Koori Caucus (now the Aboriginal Justice Caucus).

The KJU was responsible for coordinating the development and delivery of Aboriginal justice policies and programs across the Victorian Government and justice agencies. The KJU:

- provided advice to the Justice executive, ministers and staff across the department on issues impacting on Aboriginal communities across Victoria
- advocated for ongoing improvement in the design and delivery of Aboriginal justice initiatives
- monitored and evaluated Aboriginal justice initiatives
- maintained a robust evidence base detailing Aboriginal involvement with criminal justice institutions, and
- provided executive services to Justice ministers and the Justice executive and secretariat support and program implementation on behalf of the Aboriginal Justice Forum

At the time of review, the KJU provided secretariat support for the Aboriginal Justice Caucus.

Since then

Aboriginal Justice Caucus Secretariat⁵

Secretariat support for the Aboriginal Justice Caucus (AJC) transitioned out of the KJU and into an Aboriginal Community Controlled Organisation. Initially funding was provided for a Caucus Executive Officer located in VACSAL.

In developing AJA4, the AJC emphasised the need for further independent support to enable the Caucus to increase their participation and leadership in government processes, policy and program design in line with Victorian Government commitments to enable greater Aboriginal self-determination.

Funding announced in 2018 to support implementation of Burra Lotjpa Dunguludja (AJA4) included additional resources for the AJC Secretariat to employ additional staff.

Since 2024, the AJC Secretariat has been auspiced by the Victorian Aboriginal Legal Service.

Evidence of impact

Authorising documents

Burra Lotjpa Dunguludja –Aboriginal Justice Agreement Phase 4⁶

Under Goal 4.2: Greater Aboriginal Community Leadership and Strategic Decision Making, the Victorian Government committed to fund additional capacity to support the AJC to increase

⁵ Department of Treasury and Finance (Vic), Parliament of Victoria, *Service Delivery 2023–24* (Budget Paper No No 3, 2023) 283-4.

⁶ Department of Justice (Vic), *Burra Lotjpa Dunguludja: Victorian Aboriginal Justice Agreement Phase 4* (Agreement, 2018) ('AJA4').

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	their participation and justice leadership role in government processes, policy and program design. This funding was provided and is ongoing.
Outputs	None identified.
Outcomes	Under AJA4 funding was provided to support the AJC to increase their participation and justice leadership role in government processes, policy and program design. This funding supports employment of the AJC Secretariat comprising an Executive Officer, Policy Officer and Administrative Officer located in an Aboriginal community organisation. This funding is ongoing, however increasing requests for AJC engagement, advice and policy submissions means the existing resources are stretched and not all requests can be accommodated.
Community views	<p>Jumbunna Institute for Indigenous Education and Research⁷</p> <p><i>The evidence is settled that self-determination is the only strategy that has generated the sustainable wellbeing – cultural, physical, spiritual, economic and social – that Aboriginal communities and the broader community desire. Self-determination relates to the capacity of the Aboriginal community itself to determine its preferred future and to create the human, institutional and financial infrastructure to bring those aspirations into being.</i></p> <p>The AJC need to be ‘supported by a fully funded secretariat’. As the responsibilities of the AJC expand in terms of policy, legislation and program development, ‘it will require staff with the appropriate skillsets to conduct research, consult with community, design policy, draft legislation . . .’⁸</p>

Related recommendations

National Agreement on Closing the Gap⁹	<p>Priority Reform One: Formal Partnerships and Shared Decision Making</p> <p>The Parties commit to building and strengthening structures that empower Aboriginal people to share decision-making authority with governments to accelerate policy and place-based progress against Closing the Gap.</p> <p>Priority Reform Two: Building The Community-Controlled Sector</p> <p>The Parties commit to building formal Aboriginal community-controlled sectors to deliver services to support Closing the Gap.</p>
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⁷ Ibid 11.

⁸ Larissa Behrendt, Amanda Porter and Alison Vivian, Jumbunna Institute for Indigenous Education & Research, *Aboriginal Self-determination in the Victorian Justice Context - Towards an Aboriginal Community Controlled Justice System* (Report prepared for the Koori Caucus, 2017) ('Report on Aboriginal Self-determination and the Victorian Justice System').

⁹ Joint Council on Closing the Gap, *National Agreement on Closing the Gap* (Agreement, July 2020) 5, 8 ('Closing the Gap').

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Assessment summary¹⁰

The intent of Recommendation 3 was to form a secretariat to support the Aboriginal Justice Advisory Committee. Actions taken fully align with the intent in that an independent Secretariat exists to provide information to the AJC, assist us with the development of policy proposals, and liaise on our behalf with other agencies.

The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) recognised the benefit of the Secretariat being accountable to the Advisory Committee and having the maximum degree of autonomy from government to assist the Advisory Committee to give informed, independent advice to government. Action taken in Victoria has contributed towards this outcome, with our Secretariat located within an Aboriginal community-controlled organisation as determined by us. Our Secretariat has autonomy from government to fulfil its functions as envisaged in Recommendation 3.

Although funding for the Secretariat has increased over time, so too have our support requirements given increased involvement in justice reforms. To meet the increasing number of government requests for engagement, advice, and policy submissions, additional resources are required.

Recommendation 3 remains highly relevant as the Secretariat is fundamental to the functioning of the AJC, particularly as the breadth and scope of matters that we are involved with increases over time. Greater investment in the Secretariat would help us hold government agencies to account on their implementation of RCIADIC recommendations, and contribute to reducing incarceration, improving custodial care and progressing Aboriginal self-determination.

Aboriginal communities must be empowered to make decisions on all matters that affect them. We know we have further work to be done to bring Aboriginal communities and organisations together and to work out the details on an Aboriginal justice system, but there are also lessons that can be learnt from work that's currently underway. (Chris Harrison, Co-chairperson, AJC)¹¹

¹⁰ Meeting with Aboriginal Justice Caucus Working Group (Project Team, In Person, 19 September 2023) ('Working Group Meeting (19 September 2023)'); Meeting with Aboriginal Justice Caucus (Project Team, In person, 10 November 2023) ('Aboriginal Justice Caucus Meeting (10 November 2023)').

¹¹ 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 Recommendation 3

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

2

(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

Additional funding for Aboriginal Justice Caucus Secretariat

Provide additional funding for the AJC Secretariat to support the engagement of the Aboriginal Justice Caucus in more justice system reform projects. This requires the employment of staff with the appropriate skillsets to conduct research, consult with and communicate with community, design policy, and draft legislation.

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 3
	Moderate (3-4)			
	Low (0-2)			

Bibliography

Meeting with Aboriginal Justice Caucus Working Group (Project Team, In Person, 19 September 2023)

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)

Behrendt, Larissa, Amanda Porter and Alison Vivian, Jumbunna Institute for Indigenous Education & Research, *Aboriginal Self-determination in the Victorian Justice Context - Towards an Aboriginal Community Controlled Justice System* (Report prepared for the Koori Caucus, 2017)

Meeting with Caucus, Aboriginal Justice (Project Team, In person, 10 November 2023)

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)

Department of Justice (Vic), *Burra Lotjpa Dunguludja: Victorian Aboriginal Justice Agreement Phase 4* (Agreement, 2018)

Department of Treasury and Finance (Vic), Parliament of Victoria, *Service Delivery 2023–24* (Budget Paper No No 3, 2023)

Joint Council on Closing the Gap, *National Agreement on Closing the Gap* (Agreement, July 2020)

Royal Commission into Aboriginal Deaths in Custody (Final Report, 1991)