



## Royal Commission into Aboriginal Deaths in Custody Recommendation

### 215. Consult Aboriginal organisations about police activities

That Police Services introduce procedures, in consultation with appropriate Aboriginal organisations, whereby negotiation will take place at the local level between Aboriginal communities and police concerning police activities affecting such communities, including:

- a) The methods of policing used, with particular reference to police conduct perceived by the Aboriginal community as harassment or discrimination;
- b) Any problems perceived by Aboriginal people; and
- c) Any problems perceived by police.

Such negotiations must be with representative community organisations, not Aboriginal people selected by police, and must be frank and open, and with a willingness to discuss issues notwithstanding the absence of formal complaints.<sup>1</sup>

<b>Background<sup>2</sup></b>	<p>The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) stressed that the involvement of Aboriginal groups was essential to design effective schemes and protocols between police and Aboriginal communities. The report noted the importance of police recognising their accountability to the local community.</p> <p>A strong independent base for the Aboriginal community, in the form of community-controlled organisations, was a prerequisite for accountability and effective social control at the community level. Aboriginal organisations operated as independent representatives of Aboriginal interests, with whom police could negotiate, and as advocates, apply pressure on police to engage in negotiation and ongoing liaison. In turn, it was noted, Aboriginal community-controlled organisations required legislative and administrative support from governments to be able to play these roles effectively.</p>
<b>Intent</b>	That police work with Aboriginal organisations on ways to engage locally with Aboriginal communities on police activities that affect them.
<b>Responsibility</b>	The Commonwealth and all state and territory governments.
<b>Key contacts</b>	Victoria Police; Aboriginal Justice Caucus (AJC).
<b>Key action taken</b>	
<b>2005 Review<sup>3</sup></b>	Victoria Police assessed Recommendation 215 as <b>partially implemented</b> and noted that since the inception of Regional Aboriginal Justice Advisory Committees (RAJACs), a senior ranking

<sup>1</sup> Royal Commission into Aboriginal Deaths in Custody (Final Report, 1991) vol 4, 85 ('RCIADIC').

<sup>2</sup> Ibid vol 2, 83-85, [29.2.1]-[29.2.4].

<sup>3</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, 385-87 ('2005 Review').

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	<p>police officer had been invited to be a member on each of the six RAJACs which provided a conduit for regional issues to be raised. The Victoria Police Aboriginal portfolio holder also attended Aboriginal Justice Forum. An Assistant Commissioner fulfilled this role, then a Commander of the Operations Coordination Department who also chaired the Victoria Police Aboriginal Portfolio Reference Group.</p> <p>Along with the Aboriginal Affairs Unit in Victoria Police, Police Aboriginal Liaison Officers and Aboriginal Community Justice Panels there were several ways police consulted communities and worked together to solve issues. Issues were dealt with as they arose. Aboriginal people wishing to make a complaint against police could do so via their local police station, Ethical Standards Department or the Ombudsman.</p> <p>A regional Aboriginal Liaison Officer was available 24 hours a day, seven days week to respond to Aboriginal community members if issues arose.</p>
<p><b>2018 Review<sup>4</sup></b></p>	<p>Deloitte concluded that Victoria had <b>fully implemented</b> Recommendation 215 by developing community policing forums.</p>
<p><b>Since then</b></p>	<p><b>Victoria Police<sup>5</sup></b></p> <p>Victoria Police assessed Recommendation 215 as <b>fully implemented</b> in 2023, noting that Victoria Police partner with Aboriginal organisations and communities to facilitate communication and feedback concerning police conduct through the following mechanisms:</p> <p><u>Aboriginal Justice Forum</u></p> <p>The Aboriginal Justice Forums bring together the most senior representatives of the Victorian Aboriginal community and Justice to oversee the development, implementation and direction of the Victorian Aboriginal Justice Agreement. The AJF demands significant transparency, accountability, collaborative action and a high level of commitment from the members to work toward achieving outcomes prioritised by Aboriginal communities. The Chief Commissioner of Police and/or Delegate participate at these forums.</p> <p><u>Aboriginal Justice Agreements</u></p> <p>Aboriginal Justice Agreements Phase 3 and 4 focus on supporting community policing approaches to increase positive community-based activities between Aboriginal communities and police.</p> <p><u>Aboriginal Youth Cautioning Program</u></p> <p>The AYCP is an enhanced police cautioning program that allows young people to connect with Aboriginal elders and culturally relevant support services in their local area to address the factors underlying their contact with police. The program draws upon local Aboriginal culture, knowledge, and community to ensure a tailored response for young people, and incorporates principles of Aboriginal self-determination, early intervention, and harm reduction.</p>

<sup>4</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) 436-38 ('2018 Review').

<sup>5</sup> David Jones and Tyler McRae, 'Victoria Police Review of Recommendations from the Royal Commission into Aboriginal Deaths in Custody' (Response to AJC Request, Tranche Two).

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### Police and Aboriginal Community Protocols Against Family Violence

The Police and Aboriginal Community Protocols Against Family Violence (PACPAFV) aim to build positive relationships between Aboriginal communities and Victoria Police and strengthen police responses to incidents of family violence in Aboriginal communities.

Locally developed protocols guide police, at the time of a family violence incident, to identify whether the Affected Family Members or Respondents identify as Aboriginal and, if so, to offer them the choice of referral to Aboriginal support services or non-Aboriginal support services according to their preferences. The aim is to provide a more holistic response to all affected family members including children, and respondents, with the long-term goal of reducing the number of family violence incidents, and the rates of families experiencing repeated incidents of family violence.

### Neighbourhood Policing

NHP is a policing and engagement model which standardises Victoria Police community crime prevention efforts to improve public safety at a local level.

### Discipline Transformation Project

There is ongoing work through the Victoria Police Discipline Transformation Project to enhance the Victoria Police complaints form. The Victoria Police Aboriginal Portfolio Reference Group were consulted about the complaints form, with a new form in place since March 2023.

## Evidence of impact

### Authorising documents

#### **Keeping You Safe 2023-2028<sup>6</sup>**

Outlines Victoria Police's five-year strategy to deliver their vision for a community in which:

- everyone is safe and feels safe
- those affected by crime feel supported
- those who break the law are held to account
- police work with the community and partners to prevent crime, reduce harm and build a better, safer Victoria.

Strategic partnerships are key to implementation of the strategy, with Victoria Police noting their commitment to working with the Aboriginal Community.

Victoria Police use existing mechanisms (Local Aboriginal Justice Action Committees, Regional Aboriginal Justice Advisory Committees, Aboriginal Community Liaison Officers and Police Aboriginal Liaison Officers) to work with Aboriginal communities and organisations locally, as well as newer Neighbourhood Policing approaches to identify safety issues via community engagement.

Government and non-government partners work together to design and deliver solutions to improve community safety. For Victoria Police this involves listening to community concerns

<sup>6</sup> Victoria Police, *Keeping You Safe: Victoria Police Strategy 2023–2028* (Strategy, 2023) ('Keeping You Safe: Victoria Police Strategy 2023–2028').

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	<p>to identify and understand the problem, deciding on the most appropriate action and responding accordingly.</p> <p>NHP is a place-based initiative delivered in each Police Service Area that encourages collaboration across government and community organisations including Aboriginal community groups. It aims to build community trust and confidence with Victoria Police by:</p> <ul style="list-style-type: none"> <li>• Being highly visible and accessible</li> <li>• Prioritising collaboration with community and partner agencies</li> <li>• Developing effective responses that meet local needs</li> <li>• Strengthening Victoria Police’ focus on crime prevention</li> <li>• Adopting a problem-solving approach to community safety issues</li> </ul> <p>A Community Issues Register is used to capture, track, and report on Victoria Police’s response to issues raised by community. Local Safety Committees formed with community groups, government, and business stakeholders develop a Local Safety Plan to deliver prevention focused strategies and address community safety concerns through policing and non-policing activity.</p>
<b>Outputs</b>	None identified.
<b>Outcomes</b>	<p><b>Trial of Hume Region Notification of Significant Event form<sup>7</sup></b></p> <p>At the 63rd Aboriginal Justice Forum (AJF 63) in December 2022, several RAJAC Chairpersons raised concerns with Victoria Police about the setting up of police operations near community events including funerals, RAJAC meetings and sports carnivals.</p> <p>The Aboriginal Justice Caucus advocated for the development of a state-wide protocol regarding the setting up of police operations near community events.</p> <p>Victoria Police trialled a notification process in the Hume region, with the potential for it to be rolled out state-wide if successful. It was subsequently reported to AJF 64 that:</p> <ul style="list-style-type: none"> <li>• The Hume Region Notification of Significant Event form will allow opportunity for Victoria Police to enhance sensitivity around significant cultural events and Sorry Business in the Goulburn Valley and Wangaratta area. The form will be used on a trial basis with the view for wider implementation after analysis.</li> <li>• The form can be completed by any organisational representative or any member of the community. Police can use this information in planning for specialist policing operations.</li> <li>• Once complete, the form will be forwarded to the local Aboriginal Community Liaison Officer for notification to local management to allow planning and communication to local members.</li> </ul>

<sup>7</sup> Koori Justice Unit, 'Aboriginal Justice Forum 64' (AJF 64 Paper Pack) Robert Nicholls Hume RAJAC Chair’s Report, Attachment 1 – Regional updates on AJA positions, programs and services, 4-5.

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### Community views

#### Victorian Aboriginal Legal Service<sup>8</sup>

*Racism is particularly prevalent in Victoria Police, manifesting in denial of Aboriginality, over-policing of Aboriginal Communities, over-representation of Aboriginal people in police custody...*

*In many instances, the mere presence of Victoria Police can escalate rather than de-escalate a situation.*

### Related recommendations

#### ALRC Pathways to Justice<sup>9</sup>

#### Recommendation 14-1

Commonwealth, state and territory governments should review police procedures and practices so that the law is enforced fairly, equally and without discrimination with respect to Aboriginal peoples.

### Assessment summary<sup>10</sup>

Recommendation 215 intended that police work with Aboriginal groups to agree on ways to engage with the local Aboriginal community on police activities that affect them, including policing methods and conduct, and problems perceived by Aboriginal people or police.

In their response, Victoria noted that they partner with Aboriginal organisations and communities to facilitate communication and feedback concerning police conduct through several mechanisms, including the Aboriginal Justice Forum and Regional Aboriginal Justice Advisory Committee (RAJAC) community meetings.

While actions have been taken that are relevant to the intent of this recommendation, police activities are often reactive rather than proactive. There have been instances where Victoria Police have worked with Aboriginal organisations around community events, however where there was constructive collaboration it was often led by the Aboriginal organisations rather than police. The mechanisms that are in place are not consistently used by Victoria Police for effective engagement with Aboriginal community organisations. Victoria Police could take a more proactive approach to engaging with local Aboriginal organisations to be more aware of community events, sports carnivals and Sorry Business.

*We invite the police along and that usually works out in our case... Clearly there is a lack of consistency across the regions.* (Lois Peeler, Former Chairperson, Eastern Metropolitan RAJAC)

We discussed several examples of inappropriate policing activities near community events, meetings, sporting carnivals, and Sorry Business, that resulted in members of the Aboriginal community feeling unsafe. One example related to breath testing operations being set up near a funeral for an Aboriginal community member in the Hume region and 'accountability getting passed around' when inquiries were made as to who in Victoria Police authorised those operations.

<sup>8</sup> Yoorrook for Justice: Report into Victoria's Child Protection and Criminal Justice Systems, *Yoorrook Justice Commission* (Report, August 2023) 253, 258 ('*Yoorrook for Justice*').

<sup>9</sup> Australian Law Reform Commission, *Pathways to Justice: An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Final Report No 133, December 2017) ('*Pathways to Justice*').

<sup>10</sup> Meeting with Aboriginal Justice Caucus Working Group (Project Team, Online, 31 October 2023) ('*Working Group Meeting (31 October 2023)*'); Meeting with Aboriginal Justice Caucus (Project Team, In Person, 13 December 2023) ('*Aboriginal Justice Caucus Meeting (13 December 2023)*').

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Another example was provided where Victoria Police had attended a sports carnival to find a person they were interested in questioning. Community members felt this demonstrated the potential for Victoria Police to focus on policing *of* Aboriginal people rather than community policing that is with and *for* Aboriginal people.

Victoria Police need to engage effectively with Aboriginal organisations to address community concerns and ensure they are working proactively to support the safety of our families and communities, rather than reinforcing colonial structures through over-policing and racist conduct.

### Assessment of Recommendation 215

**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

**1.5**

(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

**1.5**

(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

**2**

(Score out of 3)

### Potential actions for further work

#### Effective police engagement with Aboriginal communities

Police should collaborate further with Aboriginal organisations and community members to address concerns around policing activities near community events with an aim to increase feelings of safety for Aboriginal people.

**Relevance and potential impact**

		Low (0-2)	Moderate (3-4)	High (5-6)
<b>Extent of action taken and evidence of outcomes</b>	High (5-6)			
	Moderate (3-4)			<b>Rec 215</b>
	Low (0-2)			

**Bibliography**

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