

Evaluation of the partnership arrangements of the Aboriginal Justice Agreement (Phase 3)

**Prepared for Victorian Department of Justice and Regulation
Koori Justice Unit**

11 May 2018



Design. Evaluate. Evolve.

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Language in this report

Throughout this document, the term Aboriginal is used to refer to both Aboriginal and Torres Strait Islander people. Use of the terms 'Koori', 'Koorie' and 'Indigenous' are retained in the names of programs and initiatives and, unless noted otherwise, are inclusive of both Aboriginal and Torres Strait Islander peoples.

Acknowledgements

Through this evaluation we have been fortunate enough to speak with a broad range of Aboriginal people across the state. We would like to acknowledge their contribution and especially their willingness to share their views, ideas and stories.

Our special thanks to the members of the Koori Caucus who we know are time poor but who made the time to speak with us.

Executive Summary

The Victoria Aboriginal Justice Agreement (AJA), first signed in 2000, has articulated the State's and Aboriginal communities' commitment to improving justice outcomes for Aboriginal Victorians. Its achievements over the past 17 years have rested on the dedication and drive of numerous individuals working together to bring about the change needed to lessen the extent and impact of contact of Aboriginal people with the criminal justice system. These individuals have steadfastly worked in local communities, across regions and at the whole-of-state level.

As Phase 3 of the Agreement was nearing completion the Koori Justice Unit within the Department of Justice and Regulation commissioned an evaluation of the governance structures and partnership arrangement of the AJA. The evaluation, conducted by Clear Horizon Consulting, used a qualitative methodology to gather the views and opinions of those who were currently, or had previously been engaged with one or more of the AJF governance structures.

The Terms of Reference for the evaluation described the key objectives were to:

- Investigate whether the partnership model and governance structures of the AJA increase collaboration and contribute to improved justice outcomes.
- Explore whether self-determination in the justice system has been enabled through the partnership model and governance structures; and whether self-determination can be further enhanced.
- Determine whether the current partnership and governance models are still the most appropriate and efficient considering the changes in the landscape since the commencement of the AJA.

This evaluation is focused on the structures for enabling action. As such, we have not investigated the initiatives or programs that may have had their genesis in any one of the structures. Nor have we investigated achievement of outcomes of the AJA – that would be a very different type of evaluation. The focus in this evaluation is solely upon the governance structures and whether those structures are meeting the objectives for the partnership as articulated in the AJA. That is, the “Victorian Government and Koori Community working together to improve justice outcomes for the Koori community” (p. 61, AJA3).

The evaluation team has conducted interviews with over 100 individuals including members of the Koori Caucus, representatives from each of the signatory agencies to the Agreement, Chairs and Deputy Chairs of the nine Regional Aboriginal Justice Advisory Committees, members of the Local Aboriginal Justice Action Committees, representatives of Aboriginal community-controlled organisations and peak bodies, and other non-signatory government agencies. We also made a Discussion paper available and invited submissions from existing and former members of the various structures. The framework for the evaluation was informed through an extensive literature review that has drawn from a broad body of work pertaining to partnerships and collaborations. Findings from the evaluation were presented to the AJF in December 2017 and participants had an opportunity to respond to the findings through a facilitated discussion. This session provided additional data for analysis and the contributions of the participants is appreciated.

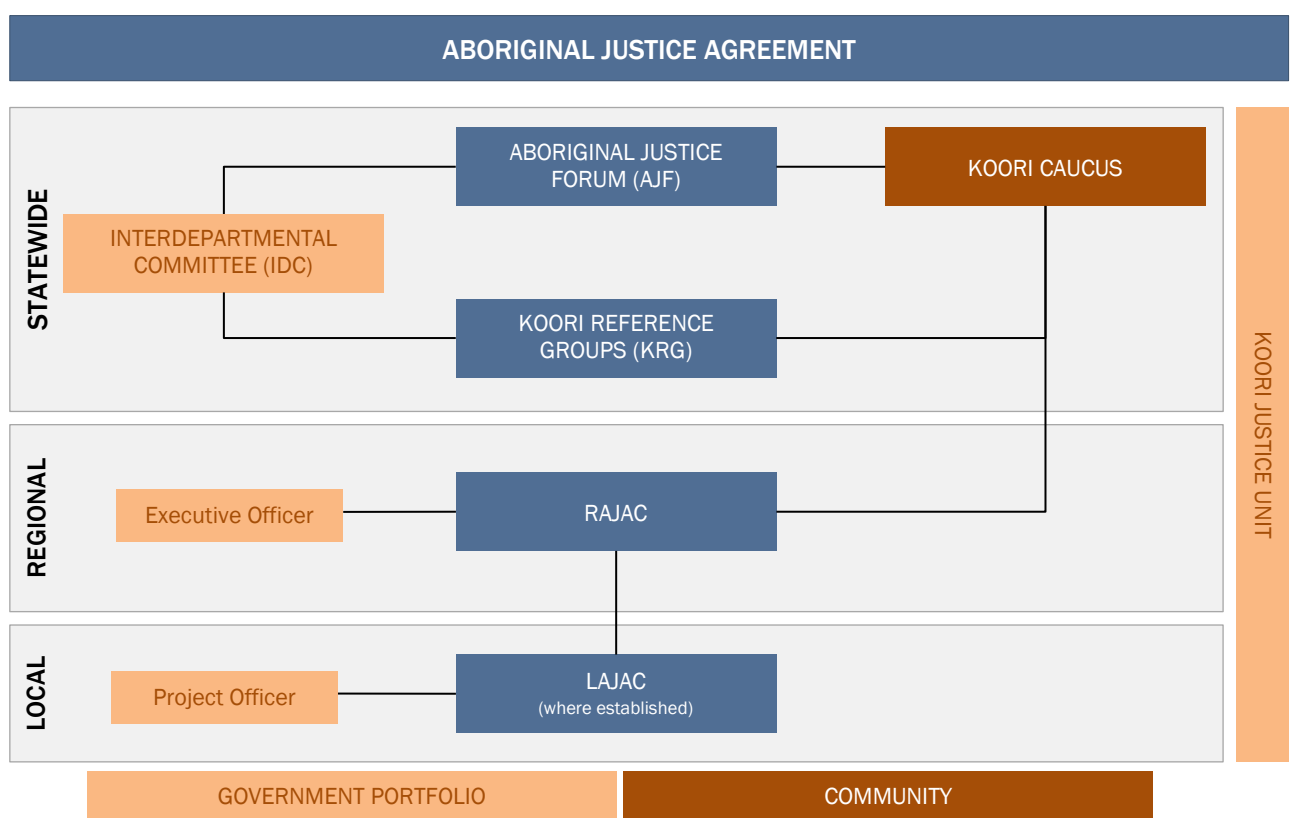
The key finding from this evaluation is that the AJA governance structures have been instrumental in giving voice to Aboriginal people across the state – from small regional communities through to highly urbanised centres. They have provided a conduit for government agencies to better connect with the people they serve – to gain insights and understanding that has previously eluded them. All partners have benefited from the partnership. Too often we think about initiatives like the AJA as something

that government does for (and sometimes, to) its citizens and we fail to acknowledge that Government is a beneficiary itself. That is the main story from this evaluation. The AJA has built the capacity of government as much as it has strengthened the capacity of community.

The evaluation has focused upon four key structures – the Aboriginal Justice Forum, the Koori Reference Groups, the Regional Aboriginal Justice Advisory Committees and, to a lesser extent, the Local Aboriginal Justice Action Committees and the other structures that support them. A summary of the principle structures is provided in the section below.

Structures of the Aboriginal Justice Agreement

When it was first implemented, the AJA made provision for the establishment of a number of structures that would facilitate collaborative working.



At the highest level are two structures:

- the Aboriginal Justice Forum (AJF), comprised of the senior representatives of government signatories to the Agreement (and other invited Government representatives), members of the Koori Caucus and Aboriginal community organisations and peak bodies. The AJF had state-wide responsibility for the development and implementation of the Agreement including a monitoring function and provides strategic guidance on justice issues affecting Aboriginal communities in Victoria.
- the Koori Caucus, comprises Aboriginal community members of the AJF who are leaders in their communities. The Koori Caucus meets six weeks prior to and the day before each AJF to shape the agenda, discuss key issues of interest and concern, share ideas and solve problems.

Supporting the AJF are two structures with responsibility for reviewing the actions and other outputs from the meeting of the Forum and to see that they are dealt with appropriately. The Interdepartmental Committee (IDC) of government representatives who have attended the AJF or their delegates confirms actions arising from the AJF and determines responsibility for addressing such actions. The seven Koori Reference Groups (KRGs) comprising government and Koori Caucus membership offer an opportunity for individual members to monitor and report on progress towards addressing the actions raised at the AJF. The KRGs are also responsible, in collaboration with Government business units, for the development of AJA Action Plans. In part, these Action Plans outline how each business unit will maximise opportunities for Aboriginal employment and career development and articulate the strategies to be used by business units and agencies to reduce Aboriginal over-representation in the criminal justice system, including how and when they will be implemented.

Nine Regional Aboriginal Justice Advisory Committees (RAJACs) bring together key Aboriginal community members and government agencies in each justice region. The RAJACs are crucial to the delivery of the AJA on the ground through the development of *Regional Justice Action Plans*. An elected Aboriginal Chairperson leads each of the nine RAJACs and represents it on the Koori Caucus and AJF.

At a town or city level in some regions are Local Aboriginal Justice Action Committees (LAJACs). The LAJACs bring together local Aboriginal community members and justice representatives in selected locations experiencing poor justice outcomes.

Key findings

The literature review enabled us to create a framework by which to analyse the governance structures. This framework comprised four key areas: context, structure, process and outcomes. Findings are presented in each area.

Context

The need for the Agreement was first voiced in the findings and 339 recommendations of the Royal Commission into Aboriginal Deaths in Custody. There was no doubt that a new approach to addressing, not only Aboriginal deaths in custody, but the wider systemic, structural discrimination that Aboriginal people face in Australian society was needed. The partnership approach offered by the AJA was not only about government working in partnership with community, it was also very much about government agencies working together and breaking from entrenched siloed responses that isolated dynamic, complex issues into singular and static portfolio level problems. The need for the AJA has not diminished over the period of the three phases.

As we near the end of Phase 3 of the Agreement interviewees to the evaluation have consistently stated that the conditions that led to the signing of the first AJA remain as valid today as they were in 2000. This is not to say that these interviewees have not seen progress over the past 17 years. Rather, the issues were of such a magnitude that real change would take some time to show impact.

Each of the interviewees understood and supported the overarching vision for the AJA, that of reducing the over-representation of Aboriginal people in the criminal justice system. Not only that, but interviewees also supported the vision for the partnership arrangements that puts effect to the Agreement itself. There was no suggestion of any alternative arrangement that would provide a more effective mechanism. Specifically, it was recognised that government working alone, even if it were more 'joined up' could not achieve the changes necessary to achieve the aims of the Agreement.

The AJA is an agreement of the government and it has had bi-partisan support since its inception. That the Agreement aligns with other government commitments to addressing Aboriginal disadvantage only further strengthens its legitimacy. Having an Agreement in place that is signed by parliamentarians provides an authorising environment to frame agency decision-making and resourcing.

The AJA is very much led by the Department of Justice and Regulation with support from other partner agencies. DJR established the Koori Justice Unit to support the AJA. Government partners to the Agreement, namely the various business units within the DJR, Court Services Victoria, Victoria Police and the Departments of Health and Human Services and Premier and Cabinet have shown an ongoing but at times inconsistent commitment to the partnership evidenced in their attendance at RAJACs and the AJF. The commitment of community representatives to the partnership, including representatives associated with Aboriginal organisations, remains strong although there is some frustration that more has not been achieved over the 17 years of the Agreement. Concerns were raised by a number of community representatives that the focus of the partnership is not as sharp as it once was, and words are not being turned into actions.

Support for the AJA is critically dependent upon the investment made by Aboriginal leaders to the Agreement. Aboriginal community controlled organisations (ACCOS) are crucial to the AJA not only because they deliver essential services to the community but also because they represent the community voice to the partnership. Their involvement at the local, regional and state level forums is particularly crucial where organisationally unaffiliated community voices are more difficult to engage. Representatives from ACCOS make up slightly more than 50 per cent of the Koori Caucus.

Structures

The intention of AJA structures and processes is to enable effective participatory decision making and support ownership and accountability. The structures were well established at the commencement of AJA3 and are operating much the same as at the time of their establishment.

The structures as they stand now are generally supported by interviewees. That they were devised through a process of collaborative engagement between government and community is highly regarded. In doing so, the structures have responded to cultural expectations of community members including operating the AJF with a co-chair arrangement (government / community), the layout of the Forum in a circle arrangement, and the inclusion of the community forums at each of the AJFs.

The venue for the Forum is rotated through the regions and allows for a Welcome to Country to be performed at each AJF giving an opportunity for a local Elder to welcome members and to share their own experiences in the region.

One aspect of the AJF that is highly regarded is the community forum. This provides a forum for any interested community members to put questions to any members of the AJF and, more importantly, to seek a satisfactory response. These community forums can sometimes be uncomfortable for agency staff, but they are an important demonstration of the willingness of government to listen to the community and to make efforts to address the issues that have been raised. For many senior government managers, the community forums are the only place where they hear the individual stories of hardship and despair that characterise the lives of so many Aboriginal people caught up in the criminal justice system.

The RAJAC and LAJAC have wide support. There are regional differences between RAJACs in terms of the level of engagement that each RAJAC meeting attracts but the inconsistency in attendance is not a result of the structure itself. The role of the RAJAC Executive Officer was accentuated in every region. The EO provides a crucial function and has been described as the glue that holds the RAJACs together.

The Koori Justice Unit has responsibility for a raft of activities and with 15 FTE staff it is stretched in meeting all of these. The implementation of the AJA is dependent upon the effective functioning of this Unit, given its responsibility for attracting funding, coordinating the Forums and the provision of strategic policy advice, amongst other tasks. The Unit and the staff serving it are held in high-regard by community and government, particularly as a contact point for those based in the regions

The one structure that garnered the most criticism was the Koori Reference Group. There is considerable difference in opinion on the KRGs. Although they are seen by some as a useful accountability mechanism and a good forum to exchange information in a meaningful way, attendance is inconsistent, and some groups struggle to achieve a quorum. Previous revisions to the way KRGs function have not fully resolved the issues. There remain concerns that the groups are not adding the benefit that was envisaged with their creation.

On the matter of equality

A key principle of the AJA is equality in the partnerships between the Aboriginal community (represented at the LAJAC, RAJAC and AJF) and government. There is no doubt that all partners ascribe to this principle but in practice there remain structural power imbalances that are difficult to redress within the existing partnership arrangements. That opportunities are provided for the voice of the Aboriginal community to be heard is not sufficient to claim that the partnership is equal for all partners.

At the heart of the inequality is the disparity in resources made available to each of the partners. Here government representatives hold the greatest power as they have access to the majority of resources. Members of the Koori Caucus have very limited resources available including one important resource, time. The disparity in resourcing is also financial. Government agencies have all the financial resources and ultimately make the decisions about where that money will be spent. The financial decisions will be influenced to a lesser or greater extent as a result of the discussions and deliberations of the forums but ultimately decisions and accountability for those decisions rests with government. The Koori Caucus as well as ACCOs sit in a client-patron type relationship with government, meaning genuine equality cannot be achieved.

A changed context

The partnership is operating in a very different context now than when it was first established. When the AJA was first executed some 17 years ago it was the only partnership structure of its kind that enabled this collaborative approach to problem solving. The connection that the AJF and the RAJACs provided between government and community was sought after by many agencies and by the Aboriginal community organisations to identify and address issues.

The authors of the AJA in all three phases have understood that achieving the objectives requires consideration of matters that are beyond the scope of criminal justice agencies. The partnership structures have expanded to include membership from other non-justice agencies and that is seen as a positive and fruitful expansion. It has enabled the AJF to look for remedies beyond criminal justice boundaries and many of these remedies have had, and are continuing to have, a positive effect on the rate of contact Aboriginal have with the criminal justice system.

As more and more agencies began to establish their own partnership arrangements (often modelled on the AJA) there has been an increasing level of overlap and duplication of effort. There is certainly a greater demand on the time and expertise of community members who are invited to participate in the ever-expanding range of forums. However, with the establishment of these other Departmental forums there now exists an opportunity for the AJF to take stock and reconsider what its focus might be for the coming phase of the AJA. No one denies that criminal justice effects are the consequence of non-criminal justice experiences and events and the AJF cannot lose sight of this. Through their long-term involvement in the AJF, these other agencies now have a deeper understanding of the potential future impacts of their own policy decisions. Policy officers at the Department of Education and Training understand how continued engagement in education can keep young people from criminal offending. The Housing Branch of the Department of Health and Human Services understand the importance of housing for prisoners transitioning to the community. Their involvement in the AJF has opened up a holistic view of their policy decisions in a whole-of-government context and there is no doubt that the message has been amplified through the voices of Aboriginal community members at the Forums.

With the new structures at other agencies the AJF can afford to re-focus its attention on criminal justice matters providing they have robust lines of communication with the other forums and a mechanism of referral of issues raised at one forum that might be better addressed by another. How this is established needs further consideration, however, it may require the execution of a Memorandum of Understanding or for communication to be facilitated through Secretaries Group meetings. However it is achieved, the opportunity for a reset has been heightened by the establishment of the new forums

Outcomes

One of the most reported achievements of the AJF is that 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 come a long way since it first formed in 2001. At that time there was understandable distrust and scepticism by Aboriginal community members towards government. 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. Some of the comments we heard during interviews reflect the outcome of the AJA journey thus far:

We have had a really positive experience with the AJA. We remember how far we've come.... especially compared with other jurisdictions (Aboriginal Peak body representative)

It's been the signature piece for better engagement both at the local/regional level and state-wide level – showing commitment to 'we're in it together', being able to test our thinking in that environment, hearing the instant feedback, also demystifying some [justice] processes. (Government AJF member)

At a regional level there have developed strong and positive relationships between the RAJAC membership that allows for communication and problem solving through more informal means. In most regions it has become possible for the RAJAC Chair, for example, to assist members of their community who have encountered issues with government agencies including police, by directly advocating with the relevant authorities on the community member's behalf. There have been numerous instances where minor issues or miscommunications have been resolved before they become more damaging.

The ongoing meetings of community and government allow for these relationships to be strengthened and maintained. It is questionable whether they could be maintained without the formal structures that are in place particularly as agency representation shifts as staff move out of one region and into another.

Summary

The AJA partnership structures are viewed as successful and interviewees want to see them be continued but with some modifications. Here we bring together the criticisms of the current structures and offer suggestions for improvements.

1. The impact of other forums

There are a growing number of forums and mechanisms for Aboriginal involvement in decision making of government departments. Given many of the determinants for criminal offending behaviour lie outside of the criminal justice system it is likely that the discussions at these other forums and the actions that arise from them will contribute to justice outcomes – positive or negative. The question for the current partners of the AJA is how to interact with these other forums to minimise the potential for duplication of effort and maximise the benefits.

One of the major consequences of the emergence of these new forums is the demand it places on Aboriginal community representatives. They are invited to participate in many forums and they are already spread very thin and many are close to burn-out. We expect that many Aboriginal representatives will prioritise their involvement in the forums of most interest and the ones where they expect to achieve real results. For some, the AJF may not be the forum of choice.

We see two main opportunities available to the AJF partners to lessen the demand on Aboriginal representatives at the Forum. If the focus for the agenda was directed towards criminal justice matters and strong links to other forums (which could be through the Secretaries Leadership Group for Aboriginal Affairs and a similarly convened group of Aboriginal representatives) were established this might allow for members to attend the one forum of most interest to them and be confident that they will continue to be informed of discussions happening at other forums. This change will only be successful if the links and communication flow between forums are strong. A second opportunity (and these should not be considered as either / or approach), is to develop programs that strengthen the capacity and capability of Aboriginal community members not already engaged with the AJA or AJF to encourage more to participate in the partnership. This opportunity is for 'sharing the load', so that the already engaged members have broader support from the community. This capacity strengthening task is a whole-of-government responsibility, not only for the AJA, but for all other forums including those established for self-determination and treaty. For the AJA partnership to continue to add value there will need to be some way to connect all of the players across all of the forums.

2. Are all voices heard?

The voice largely missing from the AJA partnership is that of youth (up to 18 years) and young people (18 to 24 years). The youth and young people's voices are represented at the AJF with the inclusion of the Commissioner for Aboriginal Children and Youth and the Manager of the Koori Youth Council. At most RAJACs they are absent. This is not to say that the AJF or the RAJACs do not have a focus on the issues affecting youth and young people as they clearly do.

The absence of a direct youth voice is a detriment to the value of the partnership. Given the young population profile of Aboriginal people in Victoria and increasing numbers of youth entering the

criminal justice system it is essential for the partnership to maintain a focus on programs and initiatives that help to divert young people from the system and to prevent their entry into the system in the first place. The best programs will be those that take account of what young people want. Encouraging more involvement by young people in the partnership, particularly at the regional and local levels, should be a focus and efforts to do so increased.

3. Succession planning

The capacity strengthening advocated above leads into enabling succession planning, particularly for RAJAC Chairs and Deputy Chairs and also for RAJAC Executive Officers.

At present, RAJAC Deputy Chairs are not being fully utilised or engaged. They tend to be used largely as a proxy for when the Chair is not available. Given the time constraints on most Chairs we suggest that the role of the Deputy Chair be boosted. In one region the RAJAC has implemented a portfolio approach similar to that of the KRG. RAJAC members, including the Deputy Chair, are assigned portfolio areas and attend the KRG in that capacity. Having this greater role in the KRG has brought a number of benefits including easing the load on the Chair, allowing other RAJAC members to become more fully engaged and building their knowledge of how decisions are made and progressed through government. It would be hoped that this would also help with the retention of community members in the RAJAC.

The role of the EO is crucial to the effective functioning of the RAJACs. The DJR is increasingly challenged in recruiting quality staff into these roles as the level of interest appears to have waned over recent years. The value added by EOs is well-accepted and when they leave these roles there is a significant impact on the RAJAC, particularly if the position remains unfilled for any period of time. We have made a recommendation aimed at addressing this issue.

4. Are all of the structures adding value?

The one partnership structure that attracted the most criticism is the Koori Reference Group. They have variously been described by critics as “cumbersome”, “bureaucratic”, “time consuming” and a “talk-fest”. Such criticism appears to us as valid. The KRGs add one further layer to an already multi-layered partnership and the role that the KRGs play may be able to be achieved through other means.

5. Would devolution improve effectiveness and sustainability?

One of the strengths of the AJA partnership is the ability to gather and share information at a local level. The relationships that have formed at the regional and town-based level have led to greater understanding of the issues that Aboriginal people are confronted with and, in turn, has built greater cultural awareness in government service providers. From this improved understanding government agencies have been introducing more and more Aboriginal liaison roles as well as increasing their Aboriginal workforce. Agencies have some limited discretion at the regional level which has enabled local initiatives to proceed. These have brought positive results on a small-scale. It may time to consider further devolution of decision making away from the centre and towards the regions.

We consider the AJA partnership a sustainable model. It has endured for 17 years and over that time has been the catalyst for significant change in the justice sector. We have not encountered, in over 80 interviews, any individual or organisation that thought the partnership had not been worthwhile. Nor did we hear from anyone who thought it should not continue. What we did hear is that the partnership needs to be revitalised, refocused and redirected.

The AJA model is fantastic - there's respect, openness, true engagement and genuine listening. (Aboriginal Peak Body organisation)

The AJA was a stepping stone, but we've got to take the next step now. In its current form it has exhausted itself (Government AJF member)

I think the AJA does do good work and I think it's needed but it is definitely time for change and to be really focused on what the purpose is. Because it is really big, and I think some of the focus gets lost and I think many people sitting around the table are feeling that (RAJAC Chair)

What has emerged often during interviews is a desire to see the AJF narrow its focus to justice-specific issues, that is, issues pertaining to police, courts and corrections in both the youth and adult spaces. This view doesn't discount the determinants of criminal offending behaviour in areas such as health, housing, employment, drug and alcohol use, or child protection. It argues that responsibility for those areas are best left to the specialists in the specific agencies and organisations with responsibilities for addressing them. There is also a view that these other agencies are now much more advanced in their own engagement mechanisms allowing for the Aboriginal voice to be heard.

This is a view that is shared by the evaluators. There is a real opportunity to push reset on the AJF so that it can make criminal justice matters the centre of attention. If this were the case, there might then be an opportunity for the partnership to have an impact on justice policy decisions and legislative change that continues to disproportionately and adversely affect Aboriginal Victorians.

Summary of recommendations

Throughout this report we have made 17 key recommendations as well as some other suggestions for improvement. The recommendations are listed below and organised by theme.

Building the strength of RAJAC/LAJACs

Recommendation 1: Regional Justice Action Plans need to be responsive to the dynamic change that occurs in society and that generate new issues of concern to the RAJAC and its members. We recommend the introduction of annual Regional Justice Action Plans which focus on two to three priority issues. It would be the role of the RAJAC to determine annual priorities but their determinations could be informed through allowing for community input via online means (if not directly via attendance at the RAJAC meetings). We understand the KJU is considering expanding its online presence. This is ideal time to also consider how that presence can incorporate the ability for community input. (p. 47)

Recommendation 5 - Attracting greater participation in regional (and local) forums by Aboriginal community members, particularly those representing specific interests (e.g. youth, education, housing, etc.) is crucial for the ongoing relevance and effectiveness of RAJACS and LAJACs. Some efforts should be directed towards investigating the barriers that keep people away and addressing these so that participation is encouraged and new people are welcomed into the forum. To ensure diversity of views it would be beneficial to attract participation from community members who are not necessarily aligned with government or community organisations (p. 55).

Recommendation 6: KJU investigate options to assist RAJACs in recruiting new community members to the RAJAC and developing the leadership capacity of new members that they might take on a leadership role in the RAJAC. This capacity building opportunity should also be made available to existing Chairs and Deputy Chairs. An

amendment to the RAJAC Framework of Operations will be required to expand eligibility to community members not affiliated with an ACCO. (p. 57).

Recommendation 7: As a first step we recommend that KJU independently evaluate the position description for EOs against the tasks actually undertaken and the responsibilities of the role. There is an opportunity to expand the role in the regions so that it becomes the key coordination position for Aboriginal justice matters. We would expect that any evaluation of the role would closely consider the resourcing sufficient to perform the tasks delivered by the EO and the professional development needs of the EOs to contribute as leaders in their communities. (p. 59).

Recommendation 10: That LAJAC and RAJAC Chairs and Deputy Chairs are surveyed to gain an understanding of their need and desire for skills and capacity development to assist them in their roles. Once the needs assessment has been completed the KJU should facilitate the necessary training for those interested. (p. 70).

Recommendation 12 – RAJAC Chairs would benefit from sharing ideas about how to maintain the vibrancy and relevance of RAJAC Forums to all members. Some RAJACs struggle to attract new community members and others are challenged by inconsistent membership. In coming together (this could be at regular Koori Caucus meetings) there is an opportunity to share innovative ideas from which all RAJACs can benefit. The networking opportunity should include Chairs and Deputy Chairs of RAJACs and should be extended to Executive Officers, LAJAC Project Officers and where appropriate LAJAC chairs so that the capacity building is offered to all who are supporting the AJA in the regions. (p. 75).

Recommendation 16 – We recommend that:

- each LAJAC have a dedicated Project Officer supporting it
- non-metropolitan based RAJAC EOs have permanent access to a vehicle to enable them to easily travel around the region
- trainee positions similar to those within the Sheriff's Office be introduced to assist with succession planning. A trainee would have networks to the community and have developed the skills necessary to engage with community and government to be able to step into the role should a vacancy arise (p. 86).

Managing the demands on community

Recommendation 4: Given the number of forums, meeting, workshops and the range of consultations taking place it would be useful if government agencies holding these forums could better coordinate and communicate activity. Government cannot expect Aboriginal community members will be available for all forums but their ability to do so will be enhanced if they are able to see a schedule of all of the forums being planned for the next six months. A whole-of-government calendar of events could be developed and made publicly available to enable forward planning. (p. 48).

Innovative use of technology and online platforms

Recommendation 9 – Online platforms enable real-time and ongoing communications to occur and provide a useful mechanism to share and disseminate information, either to selected members of a portal or publicly. The KJU should investigate how to expand their

online presence so that information can be shared outside of the formal face-to-face forums. (p. 64).

Recommendation 15 – We understand the KJU is in the process of developing a stronger web presence. That presence needs to tell these stories where change has been effected and it also needs to tell the stories of how the AJA partnership is working towards addressing other factors contributing to over-representation. As one interviewee made clear “knowledge is a powerful tool” and placing that knowledge where it can have the most influence is the first step. We also recommend that the KJU considers building in the facility for people to raise their own issues and concerns through a moderated section of the website. This could help to attract the youth voice and bring greater diversity to the discussions. (p. 80).

Monitoring the implementation of the agreement

Recommendation 2 - In developing their Regional Justice Action Plans the RAJAC should identify one action or initiative that is expected to have a significant impact and provide the details of the action, including lead agency/organisation to the KJU Evaluation Team to enable them to develop a methodology for a review. The purpose of the review is to determine the impact of the action against the objectives of the AJA. As it is possible that up to nine reviews will be required annually, it is likely that additional resources will need to be made available to the Evaluation Team to design and implement the studies. (p. 48)

Recommendation 13 – A recommendation that the KJU design and implement an annual survey of AJA partners at the state, regional and local levels to gather their views on the performance (strengths and weaknesses) of the partnership. Survey responses should be anonymised and confidentiality of respondents assured. Results from the survey should be presented back to the relevant forum. (p. 77).

Recommendation 14 - Regional Justice Action Plans should be assessed each year by the RAJAC to monitor the extent to which actions have been addressed and the contribution the actions have made to the objectives of the AJA in the region. The assessment should also identify any actions that remain outstanding and RAJACs should identify how they will be addressed in the coming Plan (if at all). This assessment report should be made publicly available through the KJU. (p. 80).

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Recommendation 10 - That LAJAC and RAJAC Chairs and Deputy Chairs are surveyed to gain an understanding of their need and desire for skills and capacity development to assist them in their roles. Once the needs assessment has been completed the KJU should facilitate the necessary training for those interested. (p. 70).

Reducing the over-burden

Recommendation 3 - The Koori Action Plans are not providing any benefit to the AJA that is not already provided through other mechanisms. We recommend that they be reconsidered. There is potential for the KRG Terms of Reference to be expanded to include any matters previously included in the Koori Action Plan that are not addressed either in the AJA, Regional Justice Action Plans or other procedural documentation. (p. 48).

Also,

Recommendation 8 – The KRGs are currently not functioning effectively, largely due to resourcing and scheduling issues but also because a lack of role clarity. We recommend the KRGs remain in place at least in the short-term. To assist in improving their functionality, we recommend that the KJU investigate the benefits of using web-based platforms to allow more frequent communication between KRG members. This evaluation has only skimmed the surface of what the underlying issues are with the KRGs. As such, we recommend a more in-depth analysis of the diversity of opinions about the KRGs and to better understand all of these positions. With this understanding in place the KJU should work with Koori Caucus to determine whether, and in what form, the Koori Reference Groups might continue, if at all. (p. 62).

Strategically focussing on justice

Recommendation 8 – The KRGs are currently not functioning effectively, largely due to resourcing and scheduling issues but also because a lack of role clarity. We recommend the KRGs remain in place at least in the short-term. To assist in improving their functionality, we recommend that the KJU investigate the benefits of using web-based platforms to allow more frequent communication between KRG members. This evaluation has only skimmed the surface of what the underlying issues are with the KRGs. As such, we recommend a more in-depth analysis of the diversity of opinions about the KRGs and to better understand all of these positions. With this understanding in place the KJU should work with Koori Caucus to determine whether, and in what form, the Koori Reference Groups might continue, if at all. (p. 62).

Recommendation 11 – One AJF each year should be dedicated to identifying three key themes for the subsequent Forums. Identification of the themes should be based upon issues that have emerged over the previous 12 months that have been highlighted by RAJACs, Koori Caucus, KRGs and government business units or that have emerged from an analysis of criminal justice data. The KJU may offer suggestions for themes for consideration by the AJF if this assists in expediting the process. Themes should be aligned to the priorities for the AJA. Once determined it will be the responsibility of the KJU, in collaboration/discussion with the AJF members (out of session) to create an agenda aligned to the theme. Creation of the agenda will include identification of speakers/presenters particularly those who might offer a view not typically encountered at an AJF. (p. 72).

Recommendation 17 – That the AJF take the opportunity to refocus its agenda on criminal justice matters, provided that strong links are established between the AJF and other Aboriginal-focussed forums established by other Government agencies. While the AJF agenda could focus on criminal justice matters there is a continuing need for a holistic approach and the Forum will still need to draw on knowledge and ideas from a range of experts across different sectors. Representation from a similarly wide range of stakeholder groups as currently engaged should continue. Where links are established with other forums they will need to allow for an open flow of information and for issues that might be raised in one forum to be referred to, and acted upon, by a more relevant forum. It is crucial that accountability for addressing actions is maintained and communicated. If the links between forums cannot be established the AJF should continue to maintain the broad focus it currently has, understanding that duplication of effort will occur. (p. 90).

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Acronyms

AJA	Aboriginal Justice Agreement
DHHS	Department of Health and Human Services
DJR	Department of Justice and Regulation
EO	Executive Officer
KJU	Koori Justice Unit
KRG	Koori Reference Group
LAJAC	Local Aboriginal Justice Action Committee
RAJAC	Regional Aboriginal Justice Advisory Committee
RCIADIC	Royal Commission into Aboriginal Deaths in Custody
VACCA	Victorian Aboriginal Childcare Agency
VACCHO	Victorian Aboriginal Community Controlled Health Organisation
VACCO	Victorian Aboriginal Community Controlled Organisation
VAEI	Victorian Aboriginal Education Association Inc
VALS	Victorian Aboriginal Legal Service
VEOHRC	Victorian Equal Opportunity and Human Rights Commission

1. Introduction

The Aboriginal Justice Agreement is a response to the disadvantage impacting the lives of Aboriginal people across Victoria. The need for such an Agreement was articulated in the findings and recommendations of the Commonwealth Royal Commission into Aboriginal Deaths in Custody (RCIADIC) which reported in five volumes in 1991. Responsibility for implementing the Commission's findings rested with State governments and their service delivery agencies. The first recommendation of the Royal Commission made clear that governments should do this through a process agreed in partnership and after consultation with Aboriginal organisations. In 1997, a national Ministerial Summit examined the status of the implementation of the recommendations. A significant outcome from the Summit was a national agreement to develop jurisdictional based agreements in partnership with Aboriginal communities to move States and Territories forward in implementing the Commission's recommendations. Following the Summit, the Victorian Government, in partnership with the Victorian Aboriginal Legal Service (VALS) and Victorian Aboriginal Justice Advisory Committee (VAJAC), worked together to develop the first Aboriginal Justice Agreement (AJA)¹.

The Agreement acknowledges that Aboriginal children, young people, adults and families experience ongoing disadvantage across the areas of education, employment, rates of child protection notifications and substantiations, criminal justice, housing and homelessness, and health and wellbeing. As a result, they are disproportionately more likely than non-Aboriginal people to come into contact with the criminal justice system at some point in their lives.

Previously, governments have attempted to resolve the issue of the over-representation of Aboriginal people in the criminal justice system largely through the adoption of top-down approaches. These have had little success. Over 17 years ago a new approach was taken founded on collaboration and allowed for the very people who were being adversely impacted by government policy to help identify and prioritise issues and to devise solutions. It was this new approach that culminated in the first Victorian Aboriginal Justice Agreement in 2000. In implementing this Agreement (described in more detail below) the partners recognised that to address disadvantage and eliminate over-representation of Aboriginal people in the criminal justice system it would require government and community to work in partnership to effect large-scale system change. In itself, this suggests a further acknowledgement that earlier top-down approaches had failed because they were incommensurate with the complexity of challenges and the transformation that would be required to 'shift the needle' on justice outcomes for Aboriginal Victorians.

Clear Horizon Consulting was commissioned by the Department of Justice and Regulation to conduct an evaluation of the partnership and governance structures of the Aboriginal Justice Agreement Phase 3 (AJA3). We have also adopted a partnership model to conduct the evaluation through partnering with Aboriginal consultants from Atkinson Consulting Group and Murawin Consulting. We have also engaged closely with the Department of Justice and Regulation's Koori justice Unit and with the members of the Aboriginal Justice Forum, specifically the Koori Caucus.

The aim of this evaluation has been to:

- Investigate whether the partnership model and governance structures of the AJA increase collaboration and contribute to improved justice outcomes.

¹ Department of Justice and Regulation (2005) Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody, Vol. 1, Sec. 2, October 2005 retrieved from https://assets.justice.vic.gov.au/justice/resources/de03947c-907f-470f-b14c-5c47b84e76f7/implementation_review_vol1_section2.pdf

- Explore whether self-determination in the justice system has been enabled through the partnership model and governance structures; and whether self-determination can be further enhanced.
- Determine whether the current partnership and governance models are still the most appropriate and efficient considering the changes in the landscape since the commencement of the AJA.

In this report, we present the findings from an extensive program of consultation with government and community contributors to the implementation, delivery and management of the AJA3.

1.1. About the Agreements

1.1.1. Aboriginal Justice Agreement Phase 1 (2000 – 2005)

The Victorian Aboriginal Justice Agreement was first established in 2000. Developed jointly by the State Government, the Victorian Aboriginal Justice Advisory Committee, the Aboriginal and Torres Strait Islander Commission and the Aboriginal community, it offered a structure to maximise Aboriginal participation in the development of policies and programs in all areas of the justice system². The contributors to the Agreement acknowledged that it was “not possible to tackle the over-representation of Aboriginals in the criminal justice system without also tackling the disproportionately high levels of Indigenous disadvantage” (p.3).

One of the key actions of the first Agreement was to “create a shared vision and agreed priorities for action within government and community sectors”. In responding to this, the key aim for the Agreement was:

To minimise Indigenous over-representation in the criminal justice system by improving accessibility, utilisation and effectiveness of justice-related programs and services in partnership with the Aboriginal community (p.25).

Delivering on the aim was to be achieved through six strategic objectives, being:

1. **Community participation** - achieve maximum Aboriginal community participation in processes for legislative, policy, and program development, service delivery and monitoring and review.
2. **Culturally appropriate programs and services** - identify and respond effectively to the needs of Aboriginal people through the development and delivery of culturally appropriate policies, programs and services.
3. **A co-ordinated and strategic approach** - develop a coordinated and strategic whole-of government approach that ensures that the design, development, delivery and monitoring of programs and services for Aboriginal people is in accordance with agreed principles, policies and planning frameworks.
4. **Fair and equitable justice services for Aboriginal people** - address issues that limit or prevent Aboriginal access to legal protection, and ensure the discretionary administration of law does not adversely impact on Aboriginal people and culture.
5. **Increasing community safety, security and wellbeing** - strengthen Aboriginal families and communities. Develop targeted strategies to address the underlying economic, social and

² Victorian Aboriginal Justice Agreement: A Partnership between the Victorian Government and the Koori Community

cultural issues behind the breakdown of families and the over-representation of Aboriginal people coming in contact with the criminal justice system.

6. **Reducing the risk of involvement of Aboriginal children and youth in the criminal justice system** - develop a whole-of-government approach that focuses on early intervention strategies to strengthen and support families experiencing difficulties, and on primary care as a means of reducing the risk of involvement of Aboriginal children and youth in the justice system.

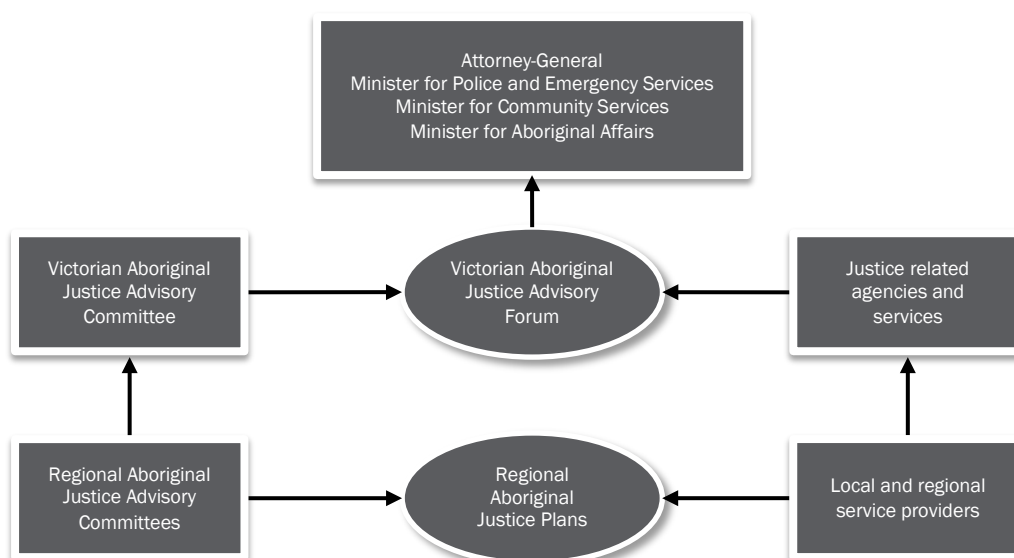
The overarching governance structure put in place to support the implementation of the Agreement comprised three levels. At the highest level was the Aboriginal Justice [Advisory] Forum comprised of the government signatories to the Agreement, and representatives from the Aboriginal and Torres Strait Islander Commission and the Binjirru and Tumbukka Regional Councils. The Aboriginal Justice Forum had state-wide responsibility for the development and implementation of the Agreement including a monitoring and evaluation function. The secretariat executive support services were delivered by the (then) Department of Justice's Indigenous Issues Unit.

An Aboriginal Justice Working Group was established to support the Aboriginal Justice Forum (AJF). In part, the functions of the Working Group was to assist the Regional Aboriginal Justice Advisory Committees (see below) develop their Regional Aboriginal Justice Plans. The Group also assisted in identifying and developing best practice approaches in program development and service delivery. It was comprised of government representatives only.

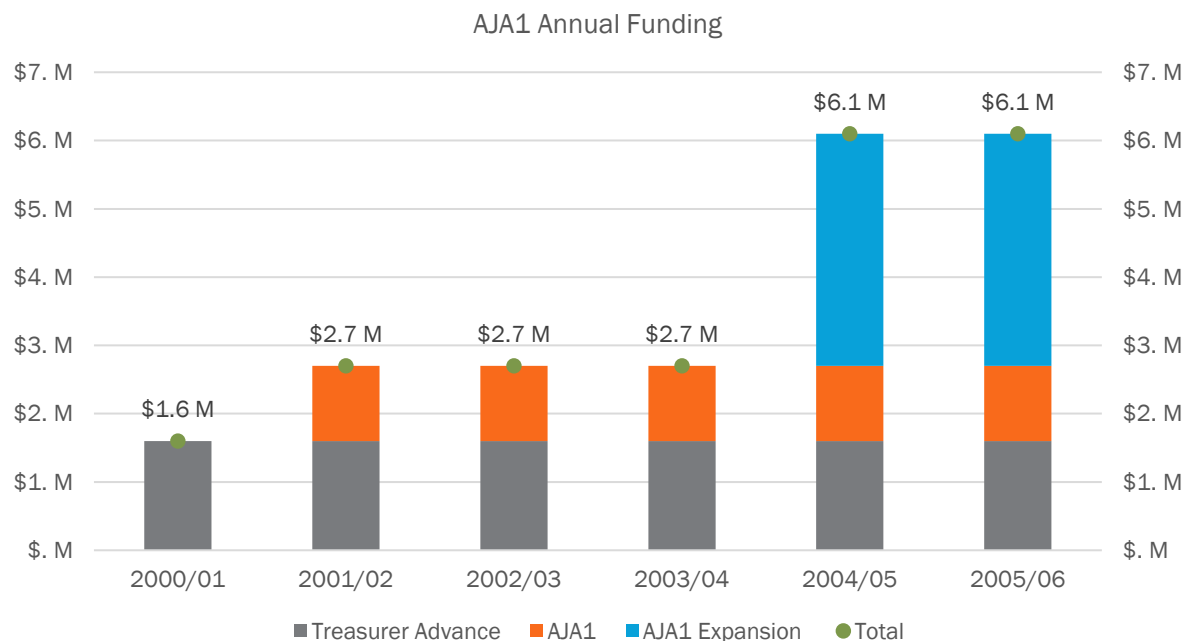
Six Regional Aboriginal Justice Advisory Committees (RAJAC) were established across the state and supported by an Executive Officer. The RAJACs included representatives from Aboriginal organisations including Tumbukka and Binjirru Regional Council, and government agencies with responsibilities in the justice sector. On establishment, RAJACs were to assess local community needs and map service provision and utilisation.

The Statewide Action Plan outlines the structures and processes established to implement the Agreement as shown in Figure 1-1.

Figure 1-1: Organisational Structure of the Aboriginal Justice Agreement (Phase 1)



Initial funding of \$1.6 million was provided to establish the AJA in 2000/01. This was increased to \$2.7 million in 2001/02 through to 2003/04, then further increased to \$6.1 million for the final two years of the agreement. This represented an investment of \$21.9 million over the life of the first agreement.



A review of Phase 1 of the AJA was completed by Atkinson Kerr and Associates and presented to the Department in April 2005. The report noted the many initiatives that had been established under the first phase of the Agreement including:

- Koori Courts (Shepparton, Broadmeadows and Warrnambool, with Mildura, Gippsland and the Children’s court to commence);
- A number of Community-based initiatives that explore different local interventions such as night patrols, youth clubs, mentoring and other programs which provide a firm basis for innovative approaches to combat over-representation;
- The Men’s Residential Diversionary Facility (to be commissioned as a major project);
- Employment of Indigenous Community Corrections Officers;
- Employment of Aboriginal Community Liaison Officers in Victoria Police

While there was no shift in the over-representation of Aboriginal people in the criminal justice system the report stated that “over-representation is not the product of a few discriminatory practices easily swept away by good will and a few procedural changes. It is a product of entrenched social disadvantage that will require a much longer term effort than the AJA has been able to apply since June 2000” (Atkinson, Kerr and Associates 2005: 116). As such, the reviewers recommended that government and community renew their commitment to the agreement. That commitment was reviewed in the execution of the Aboriginal Justice Agreement Phase 2.

1.1.2. Aboriginal Justice Agreement Phase 2 (2006 – 2012)

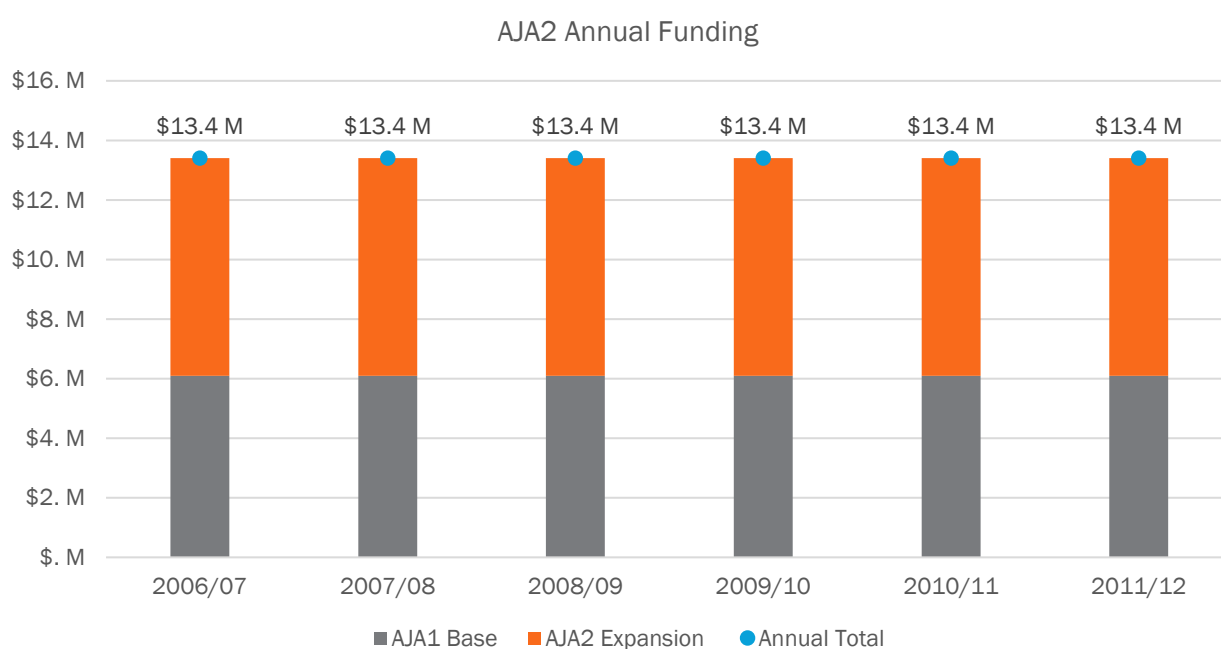
The AJA Phase 2 was signed in 2006 (to 2012) maintaining the aim of Phase 1 and adding a second aim to:

Have a Koori community, as part of the broader Victorian community, that has the same access to human, civil and legal rights, living free from racism and discrimination and experiencing the same justice outcomes through the elimination of inequities in the justice system.

AJA2 defined six objectives as follows:

- **Crime prevention and early intervention** - Reduce the number of Koori youth coming in contact with the criminal justice system by promoting protective factors and reducing risk factors for offending behaviour.
- **Diversion/Strengthening alternatives to imprisonment** - Increase the rate at which justice agencies divert Koories from more serious contact with the criminal justice system and strengthen community-based alternatives to imprisonment.
- **Reduce Re-offending** - Reduce the rate at which Koories re-offend by changing environmental and behavioural factors that contribute to that offending.
- **Reduce victimisation** - Reduce the negative impact that the high rate of victimisation has on Koori communities, families and individuals so that intergenerational contributors to offending are reduced.
- **Responsive and inclusive services** - Make mainstream and positive justice-related services more responsive and inclusive of the needs of the Koori community.
- **Strengthen community justice responses** - Build capacity in and strengthen Koori communities so they are better able to improve their justice outcomes, particularly through the delivery of place-based initiatives.

The base funding of approximately \$6 million from AJA1 was supplemented in Phase 2 with additional annual funding of \$7.3 million, bringing the annual budget of AJA2 to \$13.4 million. This funding supported the operation of the Koori Justice Unit and provided funds to other justice agencies (Corrections Victoria, Courts, Department of Human Services, and Victoria Police) and supported the operational aspects of the RAJACs and Local Aboriginal Justice Action Committees (LAJACs).



Phase 2 was based on strategies of prevention; early intervention; increased diversion; reduced re-offending and; interventions at every point in the criminal justice system. There was also a focus on

making the justice system more responsive and inclusive to Aboriginal people. Phase 2 adopted a place-based approach to establishing initiatives in partnership with local communities. Such a place-based approach recognises the importance of ‘community voice’ in building capacity to address justice issues locally.

Koori Action Plans were developed within the newly established Koori Reference Groups (KRG) which included government and members of the Koori Caucus. The Action Plans were completed for each business unit with responsibility for actions under AJA2 and were reported on to each Aboriginal Justice Forum. The KRGs aligned to business units such as the Indigenous Issues Unit, Courts and Tribunals, Police, Victims Support Agency, Correctional Health Services (now Corrections Victoria and Justice Health Services), and Youth Justice were convened on an as needs basis when decisions were required about specific projects and/or new activities, with some groups more active than others. The Plans were intended to enable each of the business units to measure performance against the activities of the AJA that are within their remit.

The independent evaluation of the AJA2 in 2012 found there continued to be over-representation of Aboriginal people in the justice system, however concluded that the number would have been greater if not for the AJA2 ” (Nous Group 2012). The evaluation reported positive outcomes in reducing the number of youth coming into contact with police and reducing the number of Aboriginal people re-offending. Further, the evaluation noted that community-based justice responses had increased along with an increase in the responsiveness of justice services. The place-based approach adopted in phase two was seen as providing stronger connections for the broader Aboriginal community to the AJA and recommended government and community sign a third AJA. The evaluators felt that “progress to date shows that Koori overrepresentation in the justice system can be addressed over time with senior level commitment, community involvement and focus” (Nous Group 2012: 7).

1.2. Aboriginal Justice Agreement Phase 3 (2012 – 2017)

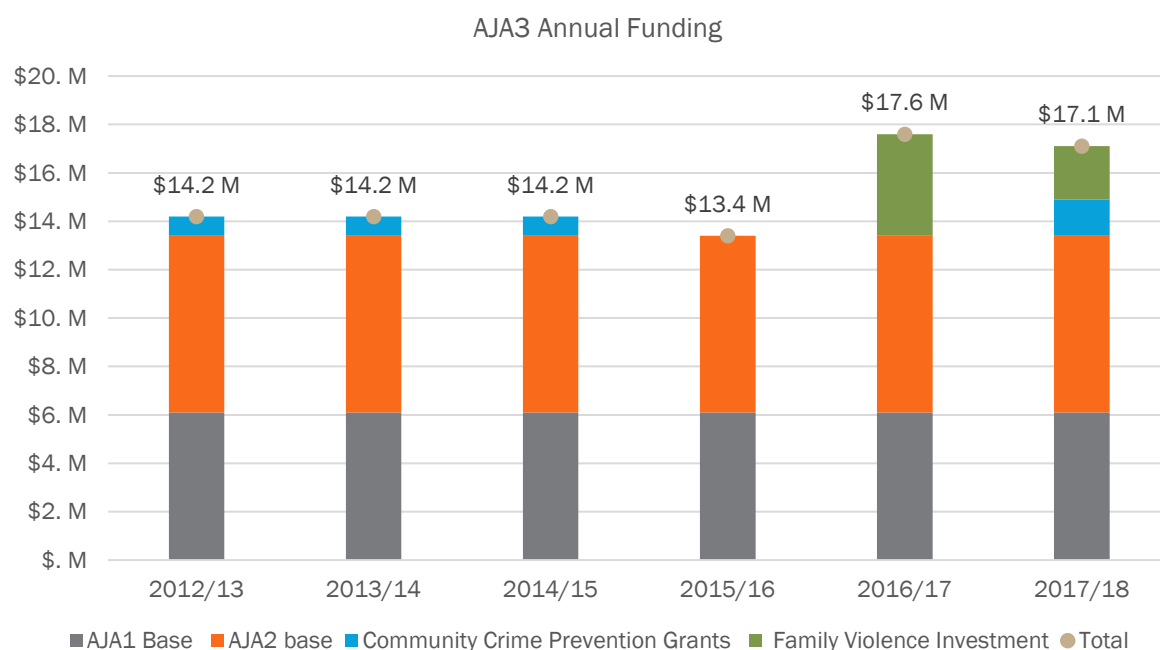
The AJA3 aimed to build on the results achieved through phase 1 and 2 with the following six strategic objectives:

- continued focus on crime prevention and early prevention
- continued emphasis and extend diversion and alternatives to imprisonment across the justice system
- increased focus on reducing re-offending across the justice system
- expanded focus to include reducing conflict and violence as well as victimisation
- increased focus on responsive and inclusive services through Koori Inclusion Action Plan and Koori Employment Strategy 2011-15
- expanded focus on strengthening community justice responses to also include increasing community safety.

Twenty eight strategies and 82 sub-strategies are described in the Agreement with an intent to build stronger families and safer communities as a means of improving justice outcomes. The governance structures were retained as they were established in AJA1 with an expanded number of KRGs from Phase 2. The KRGs themselves were refreshed at the same time, in part to address their failure as an engagement mechanism in the final years of Phase 2 of the Agreement. For example, the revitalised Justice KRG adopted a broader coverage across the Department of Justice and Regulation (DJR) than previously covered by the Indigenous Issues Unit and addresses issues associated with the Koori Justice unit (KJU), Infringement Management and Enforcement System (IMES), Victims Support Agency and the Justice Assurance and Review Office (JARO). Similarly, the Courts KRG adapted in response to the establishment of Courts Services Victoria as an independent entity separate to DJR.

The Corrections and Health KRGs combined into one, reflecting the establishment of Justice Health. The People and Culture KRG was a new addition, and was followed by the creation of the Alcohol, Drugs and Mental Health KRG in 2015.

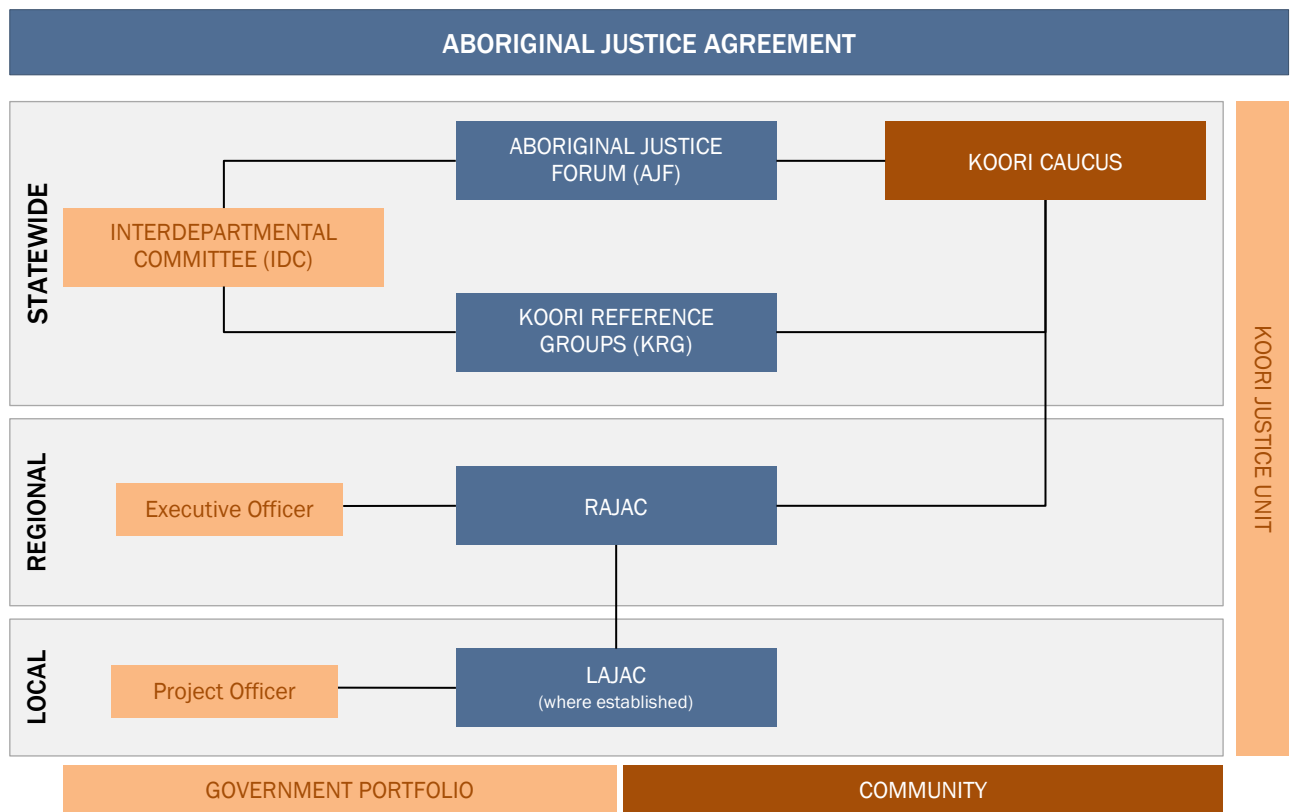
AJA3 was underpinned by a recurrent budget allocation which supports the administration of the Agreement and implementation of key initiatives (such as Koori Courts and Aboriginal Community Liaison Officers (ACLOs)). New AJA3 action implementation has been largely unfunded through government budget processes. This has necessitated a focus on making improvements in the delivery of existing programs, services and infrastructure including process improvements (e.g. improving the referral, intake or case management process) or product delivery improvements (e.g. procedural documents or program reviews)³. Funding has also been supplemented from time to time by leveraging funding off other funded activities and opportunities. In recent years, funding for initiatives aimed at reducing conflict, violence and victimisation was provided in response to the Royal Commission into Family Violence and related budget allocations.



³ Koori Justice Unit (2016). *Interim Process Evaluation: Aboriginal Justice Agreement Phase 3 (Draft)*, Unpublished internal document made available to Author, TRIM ID CD/15/330441

2. Governance structures of the Aboriginal Justice Agreement

The governance structures put in place to support the implementation of the Agreement comprises three levels, as shown in the figure below.



At the highest level are two structures:

- the Aboriginal Justice Forum (AJF), comprised of the senior representatives of government signatories to the Agreement (and other invited Government representatives), members of the Koori Caucus (see further below) and Aboriginal community organisations and peak bodies. The AJF has state-wide responsibility for the development and implementation of the Agreement including a monitoring function, and provides strategic guidance on justice issues affecting Aboriginal communities in Victoria.
- the Koori Caucus, comprised of the Aboriginal community members of the AJF. The Koori Caucus meets six weeks prior to and the day before each AJF to shape the agenda, discuss key issues of interest and concern, share ideas and solve problems.

Supporting the AJF are two structures with responsibility for reviewing the actions and other outputs from the meeting of the Forum and to see that they are dealt with appropriately. Minutes are recorded during the AJF and these are provided to an Interdepartmental Committee (IDC). Membership on the IDC is typically the government representatives who have attended the AJF or their delegates. Persons attending the IDC are expected to be at a sufficiently senior level to allow for decisions confirming the assignment of actions from the AJF to the responsible business unit.

The IDC confirms actions arising from the AJF and determines responsibility for addressing such actions. The seven Koori Reference Groups (KRGs) comprising government and Koori Caucus

membership offer an opportunity for individual members to monitor and report on progress towards addressing the actions raised at the AJF. This monitoring function informs the subsequent AJF delivering on accountability and transparency expectations.

The KRGs are also responsible, in collaboration with Government business units, for the development of AJA Action Plans. In part, these Action Plans outline how each business unit will maximise opportunities for Aboriginal employment and career development, and articulate the strategies to be used by business units and agencies to reduce Aboriginal over-representation in the criminal justice system, including how and when they will be implemented.

KRGs have been established in the following seven portfolio areas:

- Youth
- Justice
- Corrections Victoria and Justice Health
- Police
- People and Culture
- Courts
- Alcohol and Mental Health

Nine Regional Aboriginal Justice Advisory Committees (RAJACs) bring together key Aboriginal community members and government agencies in each region. Those regions are:

- | | |
|---------------------|-------------------------|
| • Barwon South West | • Eastern Metropolitan |
| • Grampians | • Northern Metropolitan |
| • Gippsland | • Southern Metropolitan |
| • Hume | • Western Metropolitan |
| • Loddon Mallee | |

The RAJACs are crucial to the delivery of the AJA on the ground through the development of *Regional Justice Action Plans*. An elected Aboriginal Chairperson leads each of the nine RAJACs and represents it on the Koori Caucus and AJF.

At a town or city level in some regions are Local Aboriginal Justice Action Committees (LAJACs). The LAJACs bring together local Aboriginal community members and justice representatives in selected locations experiencing poor justice outcomes. The LAJACs develop and guide responses to local justice issues, with representation at the AJF through the RAJACs. LAJACs are located at⁴:

- | | |
|-------------------------------|-----------------------------------|
| • Bendigo (Loddon Mallee) | • Mildura (Loddon Mallee) |
| • East Gippsland (Gippsland) | • Robinvale (Loddon Mallee) |
| • Echuca (Loddon Mallee) | • Shepparton (Hume) |
| • Geelong (Barwon South West) | • Swan Hill (Loddon Mallee) |
| • Glenelg (Barwon South West) | • Warrnambool (Barwon South West) |
| • La Trobe (Gippsland) | • Wodonga (Hume) |

⁴ A LAJAC has previously operated in the Grampians region at Horsham. Information received during field visits suggests the Horsham LAJAC has not met for about 4 years but is about to be recommenced in the near future.

2.1. The Aboriginal Justice Forum

2.1.1. Role of the AJF

The AJF brings together leaders in the Aboriginal community and the most senior representatives of the Justice, Health and Human Services, and Education government departments and Aboriginal Victoria (within the Department of the Premier and Cabinet). It operates as the peak coordinating body responsible for overseeing the development, implementation and direction of the AJA. Aboriginal community representation at the Forum includes each of the nine RAJAC chairs as well as senior representatives from a number of key Aboriginal community organisations and peak bodies (for example, Victorian Aboriginal Legal Service, Victorian Aboriginal Childcare Agency, Victorian Aboriginal Education Association Incorporated, Djirra etc.).

The AJA emphasises that the effectiveness and success of the AJF is contingent upon a strong and enduring partnership between justice agencies and the Aboriginal community.

The functions of the AJF have been spelt out in the Agreement. Its purpose is to:

- promote and coordinate the AJA principles and initiatives in the Aboriginal community and across the justice system
- promote discussion and awareness of Aboriginal justice issues and the identification or development of solutions to address improved justice outcomes for the Aboriginal community
- promote increased positive participation of the Aboriginal community in the justice system and AJA
- promote greater accountability and transparency of the justice system in its relationship with the Aboriginal community
- promote innovative and best practice approaches to the design, development, implementation and evaluation of AJA3 initiatives and other justice-related programs and services that impact on the Aboriginal community
- report to the Victorian Government on justice issues impacting on the Aboriginal community
- monitor, review and report on the implementation of AJA-related initiatives and other justice-related initiatives that impact on the Aboriginal community
- monitor, analyse and report on data describing Aboriginal contact with the justice system
- promote cross-sectoral linkages and partnerships with other Aboriginal based structures in government and the community to tackle Aboriginal disadvantage and over-representation.

2.1.2. AJF schedule

The AJF meets three times per year with an aim to promote accountability, support community participation and engagement and provide momentum to progress major policies and initiatives. These meetings are held over two days, alternating between metropolitan and regional locations. The agenda includes an open community forum to provide access for local community members to ask questions of, and discuss issues with members of the AJF.

A typical agenda for an AJF will include presentation of a justice profile of the region in which the Forum is being held and a discussion of the initiatives that are being implemented in that region under the umbrella of the AJA. The minutes from the previous meeting will be tabled and there will be some discussion on progress against outstanding actions arising from previous meetings. Each of the

RAJAC Chairs have an opportunity to deliver a report on challenges and achievements in their respective regions. The agenda may also include presentations on areas of interest to the members which may originate from the members themselves or from the KJU.

The agenda for the AJF includes a dedicated Community Forum which allows any interested community member to put questions to, and obtain feedback from the AJF membership. This direct access to high level Forum members is seen as an important component of the Forum and is highly regarded by both Forum and community members.

The agenda for the two days is full and comprehensive. Interviews with AJF members during the course of the evaluation data collection phase suggest it is not uncommon to conclude without all items being discussed or with some discussion being rushed.

Information papers covering a range of topics are provided to members two weeks prior to the Forum meeting to enable their review by Forum members. A summary of some of the papers presented at the 48th AJF in Frankston on 29-30 June 2017, for example, were in response to action items or were standing items. These included topics such as:

- Utilisation of Section 58, whereby a person can apply to have the warrant recalled and cancelled under section 58 of the *Magistrates' Court Act* – one of the “social justice initiatives”. (presented by Infringement Management and Enforcement Services, Department of Justice and Regulation)
- Update on the Review of the Expansion of Aboriginal Wellbeing Officers Program (presented by Corrections Victoria)
- Confirmation of Aboriginality and the Use of Statutory Declarations (presented by Aboriginal Victoria, Department of Premier and Cabinet)
- Update on Housing and Homelessness (Standing Item)
- Wulgunggo Ngalu Update (Standing Item).

At present, the information provided to Forum members is broad in content and in volume. Many members we spoke with admitted that they rarely had time to read and digest all of the information provided prior to the Forum.

2.1.3. AJF membership

The membership of the AJF has evolved over the 17 years since AJA1. Originally membership was limited to representatives of those government justice agencies and peak groups that were signatories to the Agreement. Other organisations or agencies could be invited to participate where the agenda would benefit from their input. In more recent years the membership to the AJF has expanded to include non-justice agencies/organisations, such as education and housing as well as statutory government bodies with an interest in, or responsibility for justice matters, such as the Victoria Equal Opportunity and Human Rights Commission.

The extension of the membership is an acknowledgement that resolving criminal justice issues requires consideration of factors outside of the criminal justice sector. The underlying causes of offending behaviour are complex and result from the “chronic cumulative effects of social and cultural disadvantage in education, employment, health and housing, together with substance abuse” (Aboriginal Legal Service of NSW and ACT, North Australian Aboriginal Justice Agency, Queensland Aboriginal and Torres Strait Islander Legal Service 2010).

The expansion has seen membership increase to close to 50 participants at last count, inclusive of government, non-government and community representatives. There has been some discussion in

recent AJF meetings for the Forum to return to its focus on criminal justice matters although this view is not held across the entire membership. The primary reason for this suggestion is that the Forum's attention is now spread thinly across multiple complex issues and the focus diffused.

2.2. Koori Caucus

The Koori Caucus comprises the Aboriginal community members of the AJF. In addition to the nine Chairs of the RAJACs (see Section 2.3) the Koori Caucus also includes Aboriginal representatives of Aboriginal peak bodies and some Aboriginal Community Controlled Organisations.

The Caucus meet prior to each AJF:

- on a day approximately six weeks out for agenda setting and consideration of minutes and actions arising from the previous forum, as well as discussing key issues of interest or concern
- on the day immediately before, to consider the agenda and share views on relevant issues.

A key feature of the Koori Caucus is that it provides an opportunity for members to discuss issues, share ideas and experiences, problem solve and develop a common view of key issues, prior to reporting to the AJF.

We heard varying viewpoints during interviews with key stakeholders as to whether attendance at Koori Caucus was restricted to Caucus members. Some stakeholders suggested that it was while others suggested that RAJAC Executive Officers were able to attend. There was consensus across the stakeholders that allowing RAJAC Executive Officers to attend would add benefit as they offer additional support to Caucus members particularly where their time is limited.

2.3. Regional Aboriginal Justice Advisory Committees

Nine Regional Aboriginal Justice Advisory Committees (RAJACs) operate throughout Victoria. Each RAJAC is supported by a full-time Executive Officer employed by the DJR who is responsible for day-to-day management and planning for the committee. The Executive Officer is located within the DJR regional office and reports to the DJR Regional Director in the region they are located.

RAJACs meet a minimum of four times per calendar year.

The role and responsibilities of RAJACs are described in the RAJAC Framework of Operations (June 2017) and are to:

- advocate for and promote improved justice outcomes and Aboriginal justice initiatives to both Aboriginal communities and government agencies
- develop and implement Regional Justice Action Plans that address Aboriginal over-representation
- promote and participate in cross agency and partnership forums, such as the Aboriginal Justice Forum, and other initiatives to address Aboriginal disadvantage
- work with other regional Aboriginal advocacy groups
- monitor and comment on Aboriginal contact with the justice system at a regional and state-wide level
- promote and nurture the LAJACs, providing advocacy for them at the regional level
- participate in the assessment process for government grant funding applications for Aboriginal justice-related programs
- aiding in the successful delivery of Aboriginal programs under the AJA.

2.3.1. Regional Justice Action Plans

A key output of the RAJAC is the Regional Justice Action Plan. These typically span the period of the Agreement (i.e. five years) although there is variation with some plans being operational for three years. The Regional Justice Action Plans outline strategies for improving Aboriginal justice outcomes and service delivery to local Aboriginal communities, and include:

- Identification of the needs of local communities.
- Locally agreed priorities for service reform and community initiatives.
- Agreed protocols and processes between community and justice agencies.

During the consultation process for the evaluation there was some discussion about the ability of the Regional Justice Action Plans to respond to the rapidly changing environment. At the outset, the intent was for Plans to be reviewed on an annual basis with actions for the coming year prioritised. Interviews with some RAJAC members suggest that this was not always happening. Further, the Plans were considered to contain more actions than could be addressed in a realistic time frame. Representatives from the KJU have advised that the hardcopy Plans developed under AJA2 were “static” and, once expired, were not always updated. This led to the Plans becoming less relevant and, therefore, under-utilised.

The plans under AJA3 were intended to be much more flexible. Five year plans were outlined and published in folders provided to all RAJACs with priority actions for the current annual period identified. The folders were specifically designed to accommodate progress updates provided to each AJF and annual reviews/ updates of plans. While these updates didn't occur as frequently as intended, KJU worked closely with all RAJACs to review, revise and prioritise their plans since 2014-15 and most RAJACs do have updated plans. Many of the original plans, and the updates came about due to the involvement of external facilitators and KJU staff in the process. (KJU staff member)

Notwithstanding issues with the currency of some of the Regional Justice Action Plans, they are generally seen as a useful mechanism to identify regionally specific issues and devise solutions in a collaborative way. We did hear from several stakeholders that the Plans replicated actions contained in regional agency strategies rather than being a reflection of RAJAC priorities. These comments were not necessarily critical but they did question whether the identified actions were sufficiently aspirational and whether they accurately reflected community interests and priorities rather than agency priorities. Nevertheless, the Plans have provided a useful accountability function and they are referenced at each RAJAC meeting.

It will be important that some attention be directed towards the ongoing utilisation of Regional Justice Action Plans through regular review and update of actions. It would be beneficial for a more systematic and thorough monitoring process to be implemented that not only checks for action completion but that also assesses the ongoing effect and long-term changes brought by the completion of the action. We suggest this monitoring functioning be the responsibility of the KJU where there is the capability for this role, recognising that the capacity and resourcing is not currently available (refer Recommendation 2 on page 48 and Recommendation 14 on page 80).

2.3.2. RAJAC Membership

According the RAJAC Framework of Operations, membership to the RAJAC is expected to comprise (at a minimum) the following representation:

Community

- A member from each of the Local Aboriginal Justice Action Committees in the region (where established)
- A representative from the Koori Youth Council
- A Victorian Aboriginal Legal Service representative
- An Aboriginal Family Violence Prevention and Legal Service representative (where available)
- A representative from each of the Aboriginal Community Justice Panels in the region
- A representative from community based organisations with justice-related programs
- A representative from each of the Indigenous Family Violence Regional Action Groups
- A Local Aboriginal Education Consultative Group representative
- An Aboriginal Official Visitor (where available)
- An Aboriginal Bail Justice (where available)
- An Elder or Respected Person from each of the Koori Courts in the region

Government

- Regional Director, Department of Justice and Regulation
- Regional Director, Department of Health and Human Services
- Regional Director, Department of Health
- Regional Director, Department of Education and Training
- Local Government representative
- Magistrate or Registrar
- Community Correctional Services Location Manager
- Sheriff's Operations Regional Manager
- Sheriff Aboriginal Liaison Officer (where available)
- Victim Services Manager
- Superintendent (Divisional Commander) or above, Victoria Police
- Aboriginal Community Liaison Officer, Victoria Police (where available)
- General Manager of prison (where located)
- Koori Court Officer
- Youth Justice

Each RAJAC has the flexibility to include other community representatives not otherwise specified above.

The RAJAC Chairperson position is integral in the effective functioning of the AJA, Koori Caucus, Koori Reference Groups, the AJF and the many sub-committees. Only Aboriginal community representatives are eligible to stand for election and be appointed as Chairperson/Deputy Chairperson.

Elections of Chairperson/Deputy Chairperson are held every two years in the first meeting of the calendar year. The method for election of the RAJAC Chairperson/Deputy is by secret ballot. A call for nominations for the positions is made on the day of the RAJAC meeting. The KJU is responsible for coordinating the process with scrutineers drawn from the RAJAC membership.

2.4. Local Aboriginal Justice Action Committees

Local Aboriginal Justice Action Committees (LAJACs) have been established to develop close relationships and build trust with local Aboriginal communities experiencing poor justice outcomes.

The LAJACs are responsible for promoting and nourishing improved relationships, linkages and reconciliation between the wider local Aboriginal community, justice agencies, local government and community service providers. The role and responsibilities of LAJACs as detailed in the AJA are to:

- Identify and address justice issues that contribute to poor justice outcomes for the local Aboriginal community. This will be done through the development and implementation of local justice plans.
- Advocate, monitor and comment on Aboriginal contact with the justice system at the local level.
- Promote justice related initiatives to Aboriginal communities and government agencies.
- Promote Aboriginal participation in the design, development, implementation and evaluation of local justice initiatives.
- Participate in and provide advice to the RAJAC network.
- Through the RAJAC, participate in and provide advice to the AJF, the VAJAC and related forums.
- Develop, promote and participate in relevant and local cross agency and cross sectoral forums and initiatives.

In some cases the LAJACs are supported by a dedicated LAJAC Project Officer, employed by the DJR and located within one of the DJR regional offices. In other cases, the RAJAC Executive Officer also supports the function of the LAJAC. A RAJAC Executive Officer may be required to support more than one LAJAC (as is the case in the Barwon South West region).

2.5. Koori Reference Groups

Koori Reference Groups (KRGs) were first initiated under AJA2, during the period of 2006-2012⁵. The KRGs were initially created to provide Aboriginal community input to government business units as they developed their AJA Actions Plans. In 2016, the role of the KRGs was expanded such that they now support the implementation of AJA initiatives and action of items raised in the AJF and allow for Koori Caucus partners to have oversight of initiatives and actions. The intent is to progress government business at the KRG to reduce the demands on the AJF and allow the Forum to concentrate on high level strategic business.

KRGs cover seven different portfolio areas as follows:

- Youth
- Justice
- Corrections Victoria and Justice Health
- Police
- People and Culture
- Courts
- Alcohol and Mental Health

The terms of reference for KRGs under AJA3 describe their responsibilities are to:

- Assist in the timely development of an Agency's AJA Action Plan.
- Endorse an Agency's AJA Action Plan on behalf of the Aboriginal Justice Forum.

⁵ from *Guidelines for Koori Reference Groups*, April 2014, KJU unpublished document

- Monitor progress of an Agency's AJA Action Plan, prior to the business unit providing a progress report to the AJF.
- Assist in the implementation of the AJA initiatives for which an Agency is the identified lead agency or supporting agency, to improve Aboriginal justice outcomes.
- Maximise alignment of AJA Action Plans with Regional RAJAC Plan priorities.
- Participate in annual reviews of an Agency's AJA Action Plans.

To ensure appropriate levels of consultation each KRG is required, under the Guidelines, to have a minimum of four Koori Caucus members. The KRG is expected to comprise at least:

- three RAJAC Chairs, including both a regional and metropolitan Chair
- one State-wide agency and/or one specialist representative as required
- appropriate senior business unit representation.

This membership is expected to assist in achieving quorum and providing broad representation, should one Koori Caucus member be unable to attend.

KRG meetings are co-chaired by the appropriate Business Unit/Agency Executive member and the appropriate member of the Koori Caucus.

The seven KRGs meet over one day with two groups meeting concurrently in three time periods. This meeting schedule makes it difficult to obtain the recommended Koori Caucus representation as it requires a high number of Caucus members to be available over the full day of the meeting. As a result, consistency of attendance and quorums are not regularly achieved.

The situation is compounded because of the diversity of KRGs, with some being more closely aligned to Caucus members' interests than others. For example, the Koori Youth Reference Group is of great interest to all of the RAJAC chairs who have been consulted for the evaluation. On the other hand, the People and Culture KRG has struggled to attract Caucus members. This is not to say that there is no interest in this KRG, rather, the schedule requires that Caucus members must prioritise their time and attendance.

2.6. The Koori Justice Unit

The core role of the Koori Justice Unit (KJU) within the DJR Service Strategy Reform Branch is to develop and support improved and equitable justice outcomes for the Aboriginal community. The role of the KJU is to:

- act on behalf of the AJF to coordinate the delivery of the AJA and related programs
- provide advice and executive support services to the AJF and the RAJAC and LAJAC networks
- provide advice to Ministers and Executives on policy and program matters affecting Aboriginal communities
- maintain a data base detailing Aboriginal contact with the criminal justice system
- coordinate and monitor the annual AJA budget allocation
- coordinate the AJA contribution to the annual Victorian Government Aboriginal Affairs report
- coordinate, implement and support related grants and relevant community programs
- develop and implement a robust monitoring and evaluation framework
- provide information to Aboriginal community and government stakeholders about progress and activities

- support and monitor the RAJAC and DJR regional offices in the delivery of AJA commitments.

The KJU promotes the partnership of both the Aboriginal community and government, by facilitating community engagement initiatives to build strong networks, and enables wide participation in the delivery of Aboriginal justice-related policies, programs and initiatives.

Current staffing of the KJU comprises a Director with overall responsibility for five teams including Community Programs, Policy Coordination, Strategic Initiatives, Monitoring and Evaluation and Stakeholder Engagement. The total number of FTE in the Unit at the time of this evaluation was 15.

3. Understanding the AJA Model

The partnership arrangements put in place in the 2000 Aboriginal Justice Agreement have remained largely consistent over the three phases of the Agreement. Those structures have endured over the past 17 years and have been replicated in other areas. For example, the Indigenous Family Violence Regional Action Groups and the Indigenous Family Violence Partnership Forum represent a similar community/agency structure. The durability of the AJA structures and their replication would suggest that they have been effective. If that is the case, then it would be useful to know why, and whether there are specific elements in the structures and governance that work well and, conversely, whether there are elements that might be improved (or removed). Ultimately, as a partnership agreement, the success of the AJA is dependent upon how well those partnerships function.

To understand the components and characteristics of this partnership approach we have undertaken a literature scan to provide information on the emergence of partnership based approaches by government to address complex social problems such as those faced by the partners to the AJA. The literature scan has guided the development of the evaluation questions and provides the framework for asking how the AJA partnership compares with what is considered good practice.

3.1. Governance (and partnerships)

Research on governance generally agrees that it is aligned with democracy and the ability for people (citizens) to contribute to decision-making.

The process of good governance is highly participatory, dynamic and engaging; it links people and institutions in complex networks of, for example, policy dialogue, alternative service delivery and accountability. Governance promotes the building of solutions to problems through establishing frameworks to support dialogue and communication (United Nations 2000).

One such framework for supporting dialogue is partnership. Partnerships bring together a variety of stakeholders and seek to strengthen the participation of individuals and groups in decision-making on matters affecting them. Partnerships contribute to building a 'strong, independent and dynamic civil society' through increasing the capacity of the non-government sector while developing the institutional infrastructure vital to its long-term sustainability (United Nations 2000).

Brinkerhoff (2007: 68) states that governance is "fundamentally about managing competing interests for the common good". To do so requires three related components be in place: effectiveness, legitimacy and security. Traditionally, governance has focused on the quality of structures and with that, the legitimacy of the structure. With partnerships, the focus is on how the structure supports more informal processes that tend to evolve over time. The performance of partnerships depends on their legitimacy to key stakeholders and on how well they enable decision-making. This in turn depends on their governance and accountability structures, processes and norms.

Bryson et al (2015) differentiate between collaborative governance and the governance of collaborations, a distinction which applies equally to partnerships. Their research refers to the work of Vangen, Hayes, and Cornforth (2014: 8, cited in Bryson et al 2015) who suggest that the "governance of a collaborative entity entails the design and use of a structure and processes that enable actors to direct, coordinate, and allocate resources for the collaboration as a whole and to account for its activities". According to Bryson et al (2015), understanding and assessing the governance of partnerships needs to take account of the context in which they operate including existing

government policies and the pre-existing relationships among members. Further, because governance structures are also influenced by internal factors, some attention needs to be directed towards the number of members and levels of trust between members. The governance of partnerships also needs to take account of power imbalances that necessarily come from, for example, government partners having special authority by virtue of representing the public. As a result, less powerful partners may have reduced commitment to the partnership because they fear they will be exploited.

Given the above, albeit brief, discussion it is clear that an evaluation of the governance structures of the Aboriginal Justice Agreement is, in essence, an evaluation of the partnership model.

3.2. Types of partnerships

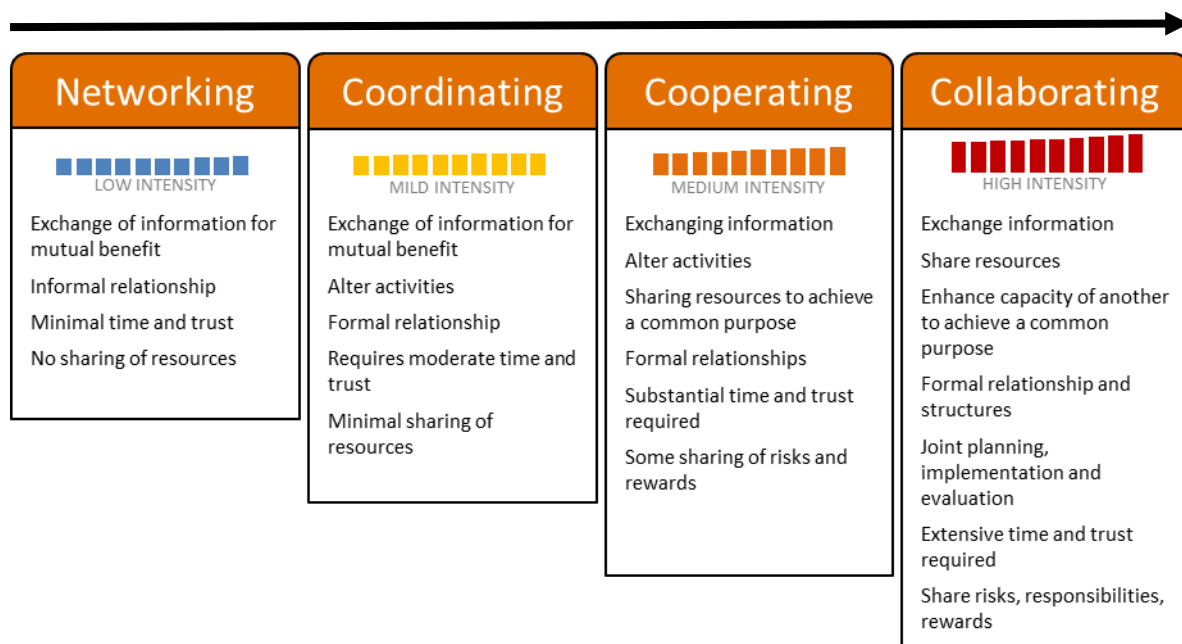
Partnership is a dynamic relationship among diverse actors, based on mutually agreed objectives, pursued through a shared understanding of the most rational division of labour based on the respective comparative advantages of each partner. Partnership encompasses mutual influence, with a careful balance between synergy and respective autonomy, which incorporates mutual respect, equal participation in decision-making, mutual accountability, and transparency (Brinkerhoff, 2002).

A collaboration refers to formalised joint working arrangements between organisations that remain legally autonomous, while they engage in coordinated collective action to achieve those outcomes that none of the partners can achieve on their own (Vangen and Huxham 2012).

‘Partnership’ is a broadly defined concept frequently used interchangeably with collaboration, network and alliance. The term partnership has been described as two or more actors that ...”make a commitment to work together on something that concerns both, to develop a shared sense of purpose and agenda, and to generate joint action towards agreed targets” (Stern & Green 2005).

A distinction can be made between the purposes and nature of partnerships. Himmelman’s Developmental Collaborative Continuum (Himmelman 1996) conceptualises different levels of partnerships (see Figure 3-1 below). ‘Networking’ is characterized by minimal involvement between partners, usually limited to exchanging information. ‘Coordinating’ involves the exchange of information and some mutual activities that have common objectives. ‘Cooperating’ partnerships involve sharing resources and are likely to require greater investments of time to the partnership and require higher degrees of trust between partners. ‘Collaborating’ involves joint planning, greater exchange of information and sharing of resources, extensive investment of time and high levels of trust, sharing of risks, rewards and responsibilities. In Australia, Himmelman’s model has been adopted by VicHealth as part of their broader Partnership Analysis Tool. Himmelman notes that most partnerships move up and down the continuum and that not all partnerships will operate at the highest level. The level will be determined by need, the purpose for the partnerships, and the capacity and willingness of partners.

Figure 3-1: The Partnership Continuum (Source: adapted from Himmelman 1996)



Based on a review of the literature, the Aboriginal Justice Agreement can be seen as a collaborative form of partnership and has been positioned at this level since its inception. The AJA partnership model is one where there are common goals, formal structures, and shared risks, responsibilities and rewards. Partners to the Agreement recognise the interdependencies between themselves and other partners and there is a high level of integration. The AJA partnership is one that rests upon collaboration between all of the signatories as well as with organisations which are not formally signatories but which share the same vision and goals.

3.2.1. The partnership lifecycle

In addition to the Partnership Continuum, another useful concept is that of the Partnership Lifecycle (Educe Ltd and GFA Consulting; Figure 3-2 below). This posits that partnerships (like developing teams) go through a series of stages – ‘forming’, ‘frustration’, ‘functioning’ and ‘flying’ – with the potential for ‘failing’. At each stage particular methods and approaches are more or less appropriate to ensuring partnership progress and success.

Some partnerships may never get through ‘frustration’, and may go directly to ‘failing’ (the downward arrows on the graph). This is where the partnership disintegrates perhaps because of a lack of a sufficient common cause, changes in people involved or a failure to work at the partnership. Partnerships need to work through the stages of the life cycle in order to function with the greatest effectiveness (or ‘fly’). The authors say that even in the best partnerships, there is a tendency to falter and perhaps fail, unless the partners consciously manage their progress through the critical stages of the life cycle.

Quite often, partnerships find themselves in a crossover zone between ‘frustration’ and ‘functioning’. In these cases, partners may have a heightened sense of failings, and could doubt the point of the partnership. Sweeping action may be needed to get it back on track, refocusing on the potential and vision, benefits and some early wins to build confidence and commitment.

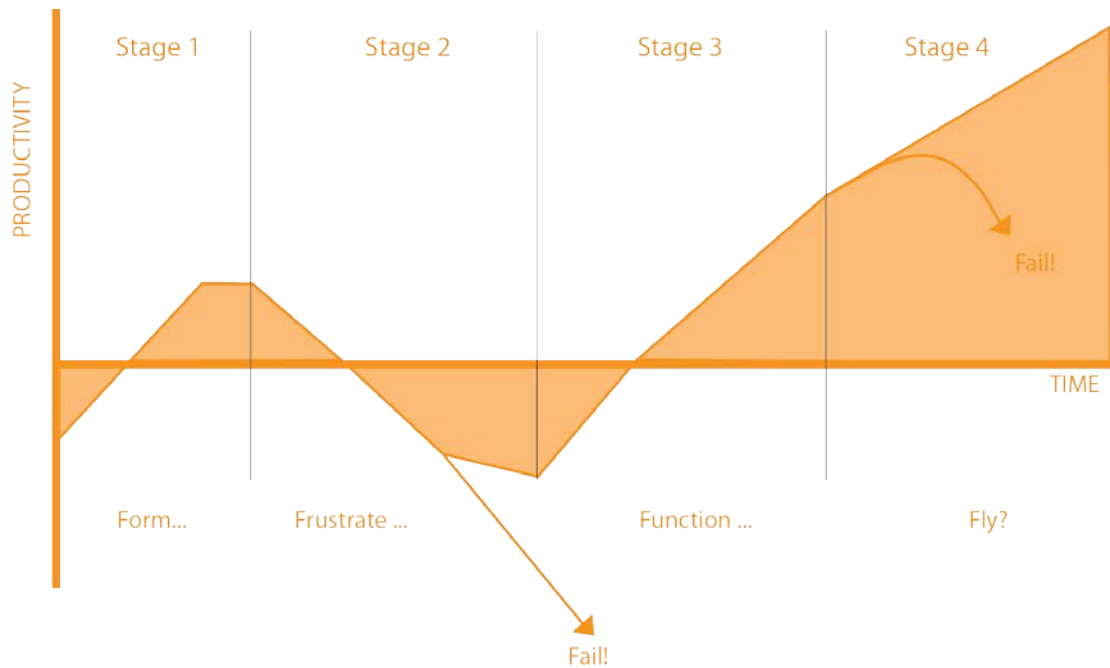


Figure 3-2: The Partnership Lifecycle (Reproduced from Educe Ltd and GFA Consulting)

Understanding where a partnership is on the life cycle can help to focus where efforts need to be made to ensure its continued operation and effectiveness. Each of the stages requires attention in different areas. For example, in the early stages of partnership formation (stage 1) some effort needs to be directed towards developing a common vision. In stage 2, demonstrating early wins is important. At stage 4, directing attention to the future relevance of the partnership is necessary. Table 3-1 describes the typical characteristics of each stage to assist in identifying whether corrective action might be necessary to keep the partnership on track towards success.

Table 3-1: Characteristics of each stage in the Partnership Lifecycle (Source: South Gloucestershire Council 2007)

	Typical characteristics of each stage
Forming	<ul style="list-style-type: none"> • common cause, arising from shared interests, opportunities, threats • clear vision • early enthusiasm: build personal relationships • exploring what's needed, what's possible • combine strengths • focus on most critical issues • nature of commitments unclear
Frustration	<ul style="list-style-type: none"> • partners feel "in a fog" • disputes or tension over priorities and methods • individuals questioning purpose of the partnership and reasons for being there • hidden agendas influencing what partners do • doubts about what each other brings to the party • partners competing for credit and control
Functioning	<ul style="list-style-type: none"> • renewed vision and focus • progress through joint project teams • partners talk in terms of "we" not "you" • clear roles and responsibilities • full accountability to each other for actions
Flying	<ul style="list-style-type: none"> • successful achievement of partnership goals • shared leadership • partners changing what they do and how they do it to achieve partnership objectives • trust and mutual respect • partnership priorities central to partner activities
Failing	<ul style="list-style-type: none"> • disengagement • lack of commitment • recurrent tensions • breakdown or frittering away of relationships

As partnerships proceed and mature, members and resource capacity tends to become the core driver of partnership activities. The number of partners within the partnership may ebb and flow over time but will tend to plateau due to reaching resource capacity, though short-term increases may still occur around strategic points. At this point, a re-evaluation of the existing partners may be necessary to ensure there is continued alignment with stated strategic goals. Mature partnerships benefit from focusing on those partners that bring unique skills, resources, or stakeholders to the larger partner portfolio (CDC n.d.).

The skillsets required to manage partnerships also change over time as partnerships mature. Initially, partnerships need to establish credentials and build trust but as they proceed, a greater emphasis might be placed on relationship management to maintain (or expand) the existing partnership. Recognising this shift enables partnership leaders to adjust members and partner skillsets over time through training or recruitment.

The AJA arguably sits somewhere between stage 3 (functioning) and stage 4 (flying). Regardless of where it is situated, it will be important to take stock of the characteristics defining the partnership after 17 years of operation to ensure that any potential or looming shortcomings can be addressed.

3.3. The shift by government to using collaborative approaches to address complex issues

Globally and nationally, the concept of partnership involving collaboration between agencies, institutions and organisations is commonly seen as providing solutions to meeting multiple, interrelated needs in areas of social policy, including justice (NCSEHE 2014). Because of the growing challenges in dealing with complex social problems and the failure of traditional responses (i.e. top-down or single issue programs) there has resulted a turn to inter-sectoral partnerships. Working in partnership has subsequently become commonplace for government and non-government organisations throughout the world (Horton et al. 2009).

The potential of partnerships is realised through the combination of people and organisations coming together “to support each other by leveraging, combining and capitalizing on their complementary strengths and capabilities” (Lasker et al. 2001: 180; Horton et al. 2009). A successful partnership is one which produces increasing returns, providing more to the partners than they would achieve independently (Child and Faulkner 1998). Waterhouse and Keast (2011) agree, arguing that agencies are increasingly using “relational governance arrangements” to better address the complex, large-scale and ‘wicked’ problems they encounter. Such arrangements create “collaborative advantage” (Huxham & Vangen 2005) delivering outcomes that are beyond single agencies and organisations to achieve⁶. Partnerships are pursued precisely because each partner has something unique to offer, whether resources, skills, relationships, or consent (Brinkerhoff 2002). Bryson et al (2006: 46) captures the intent of the framers of the AJA highlighting that;

Public policy makers are most likely to try cross-sector collaboration when they believe the separate efforts of different sectors to address a public problem have failed or are likely to fail and the actual or potential failures cannot be fixed by the sectors acting alone.

Shared visions and collaborative advantages are important remedies to wicked problems but a lack of trust, and what Thomson and Perry (2006: 24) call enforcement mechanisms, can lead to suboptimal choices. They stress that partners “must understand how to jointly make decisions about the rules that will govern their behaviour and relationships [and] create structures for reaching agreement on collaborative activities and goals”. Huxham and Vangen (2004: 199) argue that partnerships need to be concerned with “the design of structures and processes that are effective for the particular purpose, and with monitoring their performance and evolution”.

Research suggests that organisations enter into partnerships for different reasons and over varying lengths of time (Stobart 2010). In a literature review prepared by Duffield et al (2013), the factors motivating organisations to partner can be internally and externally driven. Internal factors are those associated with the benefits that come from leveraging resources, pooling talent and expertise, sharing common goals and collaborating to solve the most challenging issues. The most important factor, they argue, is the presence of common goals (see more below). The external factors motivating a partnership approach are often associated with funding directives for collaboration, and the potential efficiency gains that are expected as a result of sharing resources.

⁶ Compare this to Huxham’s notion of ‘collaborative inertia’ which is a situation that arises when the apparent rate of work output from a collaboration is slowed considerably compared to what a casual observer might expect to be able to achieve (Huxham 1996: 4).

In general, the literature agrees that a range of benefits result from working in partnership. These benefits include:

- achieving greater impact through collaborative effort
- a heightened ability to influence policies
- promotion of ownership and responsibility
- capacity building through shared working
- mutual knowledge transfer and learning
- greater flexibility and adaption to changing conditions
- greater potential to improve reach, scope and accessibility of services.

There is ample evidence for the successes that can be achieved through partnership models of working and the literature offers direction on the sorts of enabling factors that help to drive that success.

3.4. Enabling factors

3.4.1. Aboriginal and Torres Strait Islander partnership with government and mainstream service providers

There is some research literature on partnerships between government and Aboriginal or Torres Strait Islander communities and organisations, in the fields of health, early childhood services, and environmental and natural resource management activities.

In terms of partnerships between mainstream service providers and Aboriginal Community Controlled Organisations (ACCOs) the Secretariat of National Aboriginal and Islander Child Care (SNAICC 2012, see also VACCA 2010) have identified the following good practice factors which align with and extend those discussed above:

1. Commitment to developing long-term sustainable relationships based on trust.
2. Respect for Aboriginal and Torres Strait Islander cultural knowledge, history, lived experience and connection to community and country.
3. Commitment to self-determination for Aboriginal and Torres Strait Islander peoples.
4. Aim to improve long-term well-being outcomes for Aboriginal and Torres Strait Islander children, families and communities.
5. Shared responsibility and accountability for shared objectives and activities.
6. Valuing process elements as integral to support and enable partnership.
7. A commitment to redressing structures, relationships and outcomes that are unequal and/or discriminatory.
8. Openness to working differently with Aboriginal and Torres Strait Islander peoples, recognising that the mainstream approaches are frequently not the most appropriate or effective.

SNAICC states that each of these principles must be present and integrated within each partnership stage to achieve potential partnership outcomes.

... these principles form the bedrock of genuine and successful partnerships, and ... they have major implications for partnership development, operation, management and resourcing (p. 6)

3.4.2. International evidence

Partnership theory, as discussed in the literature, identifies a variety of key factors for successful partnerships. The following aspects are common across much of the literature.

1. Common vision or purpose

A common vision or shared purpose is widely perceived as an important starting point for partnerships (Huxham & Vangen 2004). One certain way for a collaboration to stall is when the partners have different agendas and visions (Albani and Henderson 2014). It is for this reason that almost all of the literature recommends the development of a shared vision of what the partnership wants to achieve (Taylor 2014; Horton et al. 2009; Huxham & Vangen 2004). As well as setting simple and realistic goals, Albani and Henderson (2014) and Taylor (2014) promote the development of an aspirational or “stretch” goal that inspires partners. Vance (2004) suggests that where possible all partners should be included in the development of the partnership’s vision or purpose, or at the very least all partners need to share this vision/goal. Taylor (2014) also promotes regularly reminding partners of the agreed vision/goal to keep everyone on the same track.

2. A collaborative advantage

Another factor aligning individual and partnerships is synergies, that is, something is achieved that could not have been achieved by any one of the organisations acting alone – the ‘collaborative advantage’ (Huxham & Vangen 2004).

3. Trust

Much of the literature highlights the need for trust to be created and nurtured as part of the partnership (Horton et al. 2009; Huxham & Vangen 2004; Stobart 2010). Thomson and Perry (2006: 28) have described trust as the central component of collaboration “because it reduces complexity and transaction costs more quickly than other forms of organisation”.

4. Recognition of power and resource differences

Statham (2000) found that to meaningfully involve people representing the voice of their community enough time has to be provided to enable them to consult their wider membership. She found that brief consultations benefit hierarchical organisations, those who have the most resources and those who are familiar with the formal and informal workings of government.

5. Effective leadership

Among the reviewed literature, leadership was frequently reported as a critical factor in determining a partnership’s effectiveness. Committed, clear and effective leadership can facilitate shared vision and goals, and navigate all parties through the (often difficult) planning stage (Armistead and Pettigrew 2004; Vance, 2004). Successful leaders have been described by Armistead and Pettigrew (2004) as those who are able to reach consensus by promoting mutual

goals, removing barriers that obstruct those goals and challenging conventional thinking that leads to inertia.

In collaborative contexts, leadership is not about a single formal leader influencing members to achieve partnerships goals, it is enacted by many individuals who bring diverse resources, experiences, and professional expertise. Three leadership media – structures, processes and participants – influence whether or not collaborative advantage is achieved. Leadership comes to be enacted by many individuals who bring diverse resources, experiences and professional expertise. Success is achieved by balancing the facilitative roles (i.e. empowering, involving, mobilising) with directive roles (i.e. manipulating the collaborative agenda and playing politics). (Huxham & Vangen 2005; Vangen & Huxham 2003).

6. Communication

Having agreed and open avenues of communication is vital for a partnership to succeed (Stobart, 2010). It is important therefore to ensure that all partners are continually engaged and updated about the process and progress throughout the partnership effort (Vance, 2004). Partnerships that provide for an honest exchange of information between all partners, based on sharing (rather than withholding) knowledge, and the clear and regular communication of agreed key issues outside the partnership have been shown to be effective (Audit Commission, 2002; Cameron and Macdonald, 2007; Huxham and Vangen, 2005). Communication extends to information and data sharing to enable decision making based on best available evidence.

7. Learning and capacity development

Learning and innovation are connected to the development of successful partnership, particularly when these partnerships are designed to tackle complex, interlinked issues which individual agencies have failed to resolve in isolation. Training and capacity development can help individuals to work in partnership, to cope with the stress caused by uncertainty, complexity and ambiguity and to bond together into an effective whole (Armistead and Pettigrew 2004). Some of the skills of particular use in partnership working include (UK Home Office 2007):

- Communication
- Political awareness
- Conflict resolution
- Leadership skills
- Negotiating skills and 'win-win'
- Team dynamics
- Understanding benefits of, and barriers to successful partnership working
- Developing and maintaining constructive working relationships
- Understanding and managing change

8. Transparent governance and decision-making

Having a transparent and effective management structure can help overcome issues as they arise. It is also important that any expectations or requirements of the partners are made explicit, and where necessary provided in written form to ensure agreement by all parties. Agreeing clear lines of accountability for the partnership helps to tie in ownership of complex issues to the appropriate level of decision making. The governance arrangements should allow for decisions to be made collaboratively, and to strive for consensus to be reached between organisations

(Vance, 2004). People attending meetings must have sufficient responsibility for making decisions.

9. Continuity

Continuous change has a negative, destabilising impact and major reorganisation can impede progress. Partners should try to minimise and avoid change for the sake of it. However, change is, to a degree, inevitable. When partners' representatives are replaced, attention to succession planning, contingency planning and knowledge transfer, and reducing the reliance on individuals, can help to ameliorate the impact of changes in the membership. Partners should assume that their partnership will need to be continually nurtured and renewed to cope with the inevitable shifts (Joint Improvement Team 2009; Huxham and Vangen, 2004).

10. Resourcing and investment in the partnership

Partnerships are more successful when each of the partners have independent access to resources, as well as when they share those resources for the good of the partnership. The pooling of resources in a collaborative partnership has a synergistic effect in that the collective strength will be greater than the sum of the efforts of each partners acting independently. In addition to increasing the pool of available resources, partnerships may bring in different types of resources such as information, expertise, and connections with other stakeholders which would otherwise not be available or accessible to the other partner (McQuaid, 2000a; 2000b).

McQuaid argues that a commitment to partnership working must come with a commitment to:

- Contribute financial resources proportionate to the problem being addressed - long-term, complex problems will need stable long-term funding and administrative support.
- Share resources and decision making.
- Use resources efficiently and incorporate sound financial planning and accountability.
- Avoid assumptions that partnership working will make immediate efficiency gains.

11. Evaluation and continuous improvement

Wherever possible, partnerships should build relevant data collection into their activities from the outset, deriving clear indicators and targets from the shared vision and outcome priorities. A simple, shared performance management system will ensure that progress is charted against core objectives and the focus is on outcomes rather than (purely) on process. The results of performance monitoring should be to review and reflect on practice and to take hard decisions on changing or abandoning programmes which are not achieving the planned goals and trying new ideas. It should also provide the evidence to allow celebration of success – found to be important in the literature to maintaining momentum and ownership (Joint Improvement Team 2009).

The factors described above are seen as essential for the success of all partnerships.

4. Evaluating partnerships

Frey and others (2006) caution on the challenges in assessing partnerships and collaboration, with the various models of partnerships being difficult to translate into valid and reliable instruments that can measure meaningful changes in the partnership. Funnell (2006) advocates for viewing a partnership as a ‘project’ in its own right and for evaluators to not only measure the outcomes or impact of the partnership but also the way in which the partnership itself functions. Serafin (2008) adopts a similar view, focusing on the way in which partnerships are organised, the impact they have and the outcomes they achieve, and the value created as a result of the partnership. The Australian Research Alliance for Children and Youth (Keast & Mandell 2013: 1) offer some direction for evaluating collaborations which can also be applied to partnerships. They support an emphasis on using relational or non-traditional performance measures to assess:

- the relationships and processes that enable collaboration
- the level of participation and engagement of collaboration members
- how well the structure of the collaboration allows participants to contribute to and influence the collaboration’s work and outcomes.

From the literature scan, the conceptual framework described by Brinkerhoff is seen to offer a solid base for evaluating the partnership arrangements of the AJA. That the framework has been successfully applied to multiple cases of partnerships is further validation for its utility.

The Brinkerhoff (2002; 2007) framework suggests four central pillars shape overall partnership performance: the context in which partnerships form (pre-requisites), the structural characteristics, the process of the partnership functioning entailing partnership practice and performance, and the partnership outcomes (see Figure 4-1). There are, she argues, causal relationships between them: context and partnership prerequisites, partnership structure, partnership process, and outcomes, or the added value of the partnership.

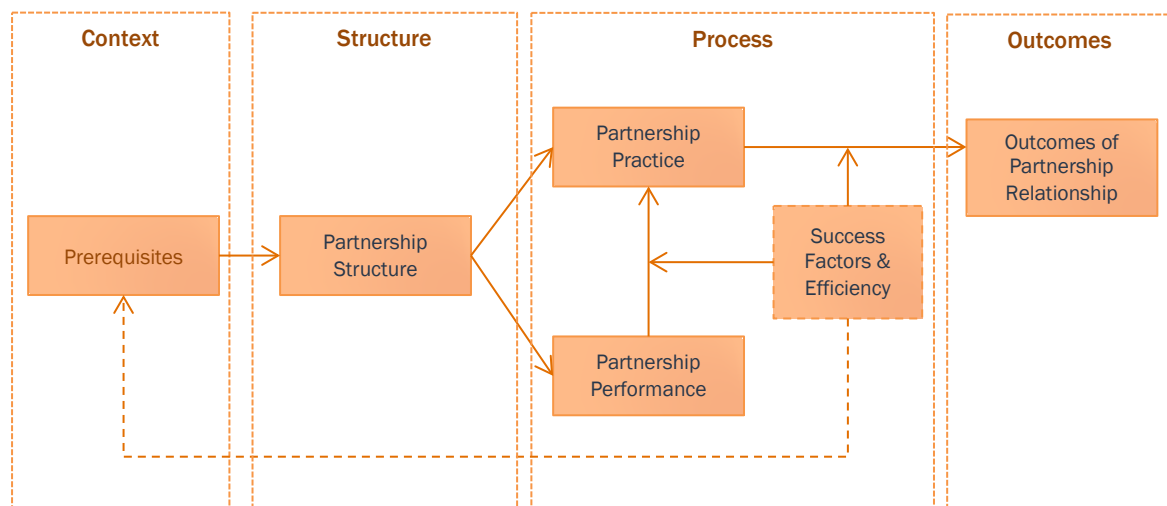


Figure 4-1: Causal chain for relationship outcomes (Source: Brinkerhoff 2007)

The context in which the partnership functions is determined by contextual factors and pre-requisites, which may include the characteristics and history of the issue, the existence of champions, a history of partnerships, and/or the broader political environment. Caplan et al (2007: 5) suggest that each partnership has “a specific, though constantly changing, context that determines its scope and direction”. The context incorporates the ‘external environment’, ‘organisational environment’ and

'individual partner motivations' which drive partners to become involved. The framework offered by Caplan et al, which is consistent with Brinkerhoff's approach, is presented diagrammatically below (Figure 4-2).

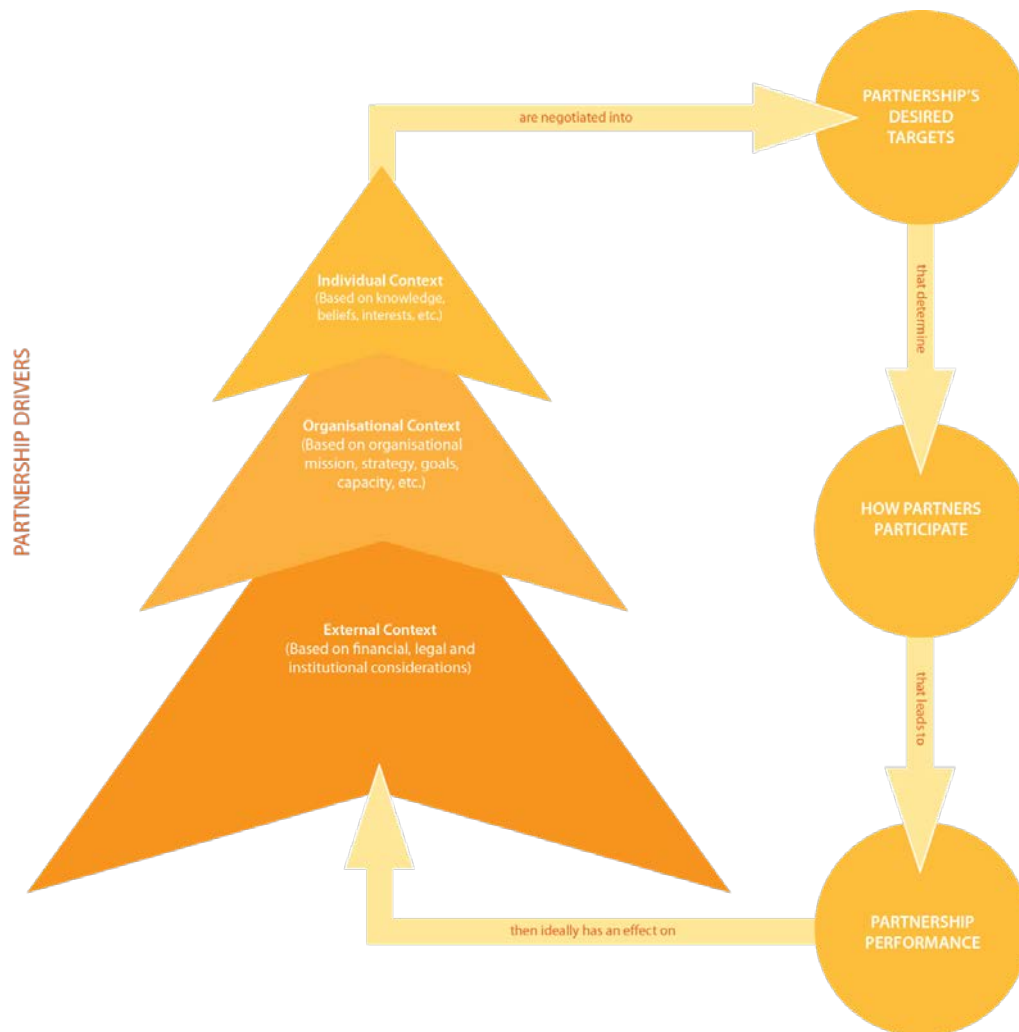


Figure 4-2: Caplan's Partnership Assessment Framework (Source: Caplan et al 2007)

Returning to the Brinkerhoff model, the partnership structure reflects the nature of connections between partners, and their respective functions. Partner performance describes each partner's comparative advantage, roles and responsibilities, and their effectiveness in fulfilling these roles. Partnership practice refers to the behaviours and mechanisms among the partners that enhance or diminish the value of a partnership on the process and contributes to outcomes, or the added value of the partnership. As Mahanty et al (2009) note, Brinkerhoff's framework resonates with the success factors described in other partnership research, such as the importance of strong and trustful personal relationships; the need to address power differentials for a partnership to be 'authentic'; the importance of learning within the partnership; and the need for compatible organisational conditions as well as equal standing.

Brinkerhoff defines the targets for analysis for each of the five dimensions captured in Figure 4-1 as shown in Table 4-1 below.

Table 4-1: Brinkerhoff's targets for analysis in partnership evaluation (Source: Brinkerhoff 2002)

I. Presence of pre-requisites and success factors	
A. Pre-requisites and facilitative factors	<ul style="list-style-type: none"> • Perceptions of partners' tolerance for sharing power • Partners' willingness to adapt to meet partnership's needs • Existence of partnership champions
B. Success factors	<ul style="list-style-type: none"> • Trust <ul style="list-style-type: none"> – Character-based: perceptions of integrity, honesty, moral character, reliability, confidentiality as appropriate, etc. – Competence-based: perceptions of competence in prescribed/assumed skill areas, business sense, common sense, judgment, knowledge, interpersonal skills, understanding of partnership, etc. • Confidence: standard operating procedures, contractual agreements and their degree of formality • Senior management support • Ability to meet performance expectations • Clear goals • Partner compatibility • Conflict
II. Degree of partnership (Partnership functioning)	
A. Mutuality	<ul style="list-style-type: none"> • Mutuality and equality • Equality in decision-making • Resource exchange • Reciprocal accountability • Transparency • Partner representation and participation in partnership activities • Mutual respect • Even benefits
B. Organisational identity	<ul style="list-style-type: none"> • Determining partner organisation identities Partner interview • Organisation identity within the partnership
III. Outcomes of the partnership relationship	
1. Value-added	
2. Partners meet own objectives	
3. Partnership identity	
IV. Partner performance	
A. Partners and partner roles enacted as prescribed or adapted for strategic reasons	
B. Partner assessment and satisfaction with their partners' performance	
V. Efficiency and strategy	
	<ul style="list-style-type: none"> • Identification of critical factors influencing partnership's success • Extent to which these are continuously monitored • Extent to which these are strategically managed

The targets for analysis offered by Brinkerhoff provide a useful starting point for structuring evaluation questions for this partnership evaluation of the AJA. In addition to investigating useful frameworks for analysis, the literature scan has reviewed a number of existing tools that have been developed to evaluate the progress and success of partnerships and these have also informed the development of

key evaluation questions. Many of these tools adopt a similar framework for analysis as that offered by Brinkerhoff. Two studies identified in the literature scan have been useful as they have conducted a full analysis of a variety of partnership assessment tools. It is worth discussing these briefly.

Mahmood et al (2015) sought to develop a checklist for inter-sectoral partnerships in health promotion through an analysis and synthesis of some 75 sources of information. From the review of the source material they identified that each tool had a unique purpose and set of domains which differed from others. According to the purpose and subject area of the resource, various domains overlapped and appeared as either core or subdomains. A total of 82 partnership domains were identified across these tools. Mahmood et al clustered the domains into a matrix of nine high level domains.

1. Need for the partnership – the benefits of a partnership approach are clear.
2. Mission - refers to the purpose of the partnership and encompasses the idea of a shared vision and aligned goals which draws together the individual, organisational and financial partners.
3. Context - refers to the external environment within which the partnership exists. It includes the individual contexts of all the partners as well as the economic, political, social and cultural context.
4. Partners' profile – refers to the partners' overall skills and expertise, and willingness to share resources to fulfil the mission.
5. Resources - encompass financial and other resources such as time, skills, expertise, reputation, personal networks and connections, etc.
6. Leadership – refers to single leaders, co-leaders, or a team of leaders who provide strategic direction to achieve the partnership's mission.
7. Roles and structures – refer to the level of formalisation and working arrangements with the partnership.
8. Communication - the ways partners (including leadership) convey information both within the partnership and externally.
9. Partnership functioning – tasks and activities that maintain the partnership and keep it productive pertaining to the partnership's mission.

The resulting Partnership Checklist includes 49 items which each respondent is asked to score using a Likert scale where 1=Strongly disagree, 2=Disagree, 3=Agree, and 4=Strongly agree. Once the questions have been answered for each domain, an overall single score for that domain is calculated based on the average. The compilation of these scores gives an indication of the overall success of the partnership.

Another study explored inter-organisational partnership self-assessment tools in the context of Australian Aboriginal-mainstream partnerships (Tsou et al 2015). In the detailed analysis of seven tools Tsou et al identified 190 process (80), relational (100) and outcome (10) elements. The process and relational elements were mapped against principles for Aboriginal-mainstream partnerships to identify consistencies and deficiencies. The key deficiency in the process elements related to timeframes and level of resourcing required to achieve determined outcomes. Key deficiencies in the

relational elements relate to respecting Aboriginal cultural knowledge, lived experience and honouring the 'Aboriginal ways'.

The main findings from the Tsou study confirms good alignment between a range of self-assessment tools and Aboriginal-mainstream partnership principles. However, the tools do not fully take account of “the historical context, lived experience, cultural context and approaches of Australian Aboriginal people” (Tsou et al 2015: 19). For assessing the effectiveness of Aboriginal-mainstream partnerships the authors recommend a bespoke tool using either the VicHealth Partnership Analysis Tool⁷ or the New York PSAT⁸ as starting points. The deficiencies in these tools, they suggest, can be satisfied through the incorporation of elements from other tools.

It should be pointed out that these tools have not been directly applied to this evaluation. Rather, the tools, along with the framework developed by Brinkerhoff discussed above, have provided the guiding structure for framing the key evaluation questions that have been put to partners to the AJA in interviews. The guiding interview questions are discussed in the following section.

4.1. Synthesising the questions for a partnership assessment

Following the advice of Tsou et al (2015) we have developed a bespoke framework for the evaluation of the partnership structures of the AJA. It draws heavily from Brinkerhoff (refer Figure 4-1) and incorporates questions included in the VicHealth and National Collaborating Centre for Methods and Tools partnership assessment tools and others. The framework used for the AJA partnership evaluation questions is structured around four key areas: context, structure, process and outcomes - and is described in greater detail below. Further detail of the types of questions that might be asked is included where the over-arching question may have a number of subsidiary components.

Interviews with partners to the Agreement were framed around the questioning provided below.

4.1.1. Context

The extent to which...	Possible sub-questions
... there was a need for the Aboriginal Justice Agreement	Would a partnership approach deliver benefits not achievable through other (traditional) means? Could a partnership realistically influence the wider context?
... there was a common and shared vision	What are you trying to solve/achieve with the partnership?
... the objectives for the partnership were realistic and obtainable	What kind of changes would you see? Where or within which organisations or institutions? What would success look like?
... there was (and continues to be) political & community support for the AJA	Are there champions for the partnership?
... there was (and is) organisational and political commitment towards achieving partnership objectives	What is the level of investment in the partnership of time, personnel, materials, facilities and other resources? Is it sufficient? Are there champions for the partnership? Do partners' understand their organisational objectives and the interdependence of these? Are organisational commitments clear?

⁷ can be viewed at <https://www.vichealth.vic.gov.au/media-and-resources/publications/the-partnerships-analysis-tool>

⁸ can be viewed at <http://www.nccmt.ca/resources/search/10>

The extent to which...	Possible sub-questions
... partners are committed to working together and sharing their ideas, resources, influence and power	
... partnership is seen as a legitimate leader in the community	<p>Are the partners involved the ones that need to be at the table?</p> <p>Do they have the necessary skills, capacity and time to contribute?</p> <p>Do they have sufficient decision making authority and the necessary influence to make a difference?</p> <p>Does the range of partners provide a comprehensive understanding and coverage of the issues being addressed?</p> <p>Has there been a history of partnership or collaboration in this area? With these partners?</p>

4.1.2. Structure

<p>The extent to which...</p> <p>... the partnership structures and processes enable effective participatory decision making</p>	<p>Were partners involved in developing the working arrangements for the partnership?</p> <p>Is the partnership recognised and accepted by stakeholders?</p> <p>Are the decision-making processes transparent, understood, agreed, and appropriate?</p> <p>Do they facilitate the work of the partnership?</p>
... formal roles and structures have been laid out support ownership and accountability	Are the lines of communication, roles and expectations of partners clearly defined?
... transparent mechanisms exist to manage financial and other resources each partner brings to the partnership	
... partners contribute and allocate a fair share of resources (financial and non-financial)	Is there sufficient investment in the partnership of time, personnel, materials or facilities?
... there is a clear commitment to partnership working from the most senior levels of each partner organisation	
... the partnership structure recognises and values each partner's contribution	Are all partners involved in planning and setting priorities for collaborative action?
... the partnership allows for strategic alliances and joint working arrangements across organisational boundaries	
...there are processes for review and evaluation of the partnership and the partners	

4.1.3. Process

4.1.3.1. Partnership practice

<p>The extent to which...</p> <p>... partners trust and respect each other to commit and deliver on commitments</p>	<p>Do the structures and processes in place reinforce trust and respect?</p> <p>Are partners able to freely express their interests and opinions?</p> <p>Are meetings scheduled such that they are convenient and accessible to partners?</p>
... partners bring the required knowledge, expertise and judgement to the partnership	<p>Is partners' capacity acknowledged, respected and strengthened?</p> <p>Do partners have knowledge and understanding of the objectives, operations and constraints of all partners?</p>

	Are there connections to community so that community needs and problems can be responded to?
... the partnership has well-defined leadership (single leader, co-leader, team of leaders, leading organisation).	Does the leadership have the capacity to bridge differences and facilitate interaction between partners? Does the leadership have the capacity/commitment to share power, plan and oversee work? Does the leadership have the capacity to create space for dialogue and challenge assumptions? Does the leadership have the capacity to promote openness, trust, autonomy, and confer respect?
... there is an ethos of collaboration, communication and learning	Are partners provided good opportunity for face-to-face communication? What are the formal structures for communication? What opportunities exist for informal contact between partners?
... there is equality in decision making, resource exchange, partner representation and participation	Are sufficient resources available to partners to enable their full engagement in the partnership? Are commitments for partner organisations a diversion from priorities or do they directly contribute to meeting priorities? Are there barriers to contributing to decision-making (associated costs, timing of meetings, agenda setting, chairing styles, document preparation, etc.)?
... each partner takes responsibility and is accountable to others for its actions	Do partners have access to the information needed to judge performance?
... strategies are planned to ensure that alternative views are able to be expressed	What is the level of satisfaction that all views are considered?
... partners are consistently represented within the partnership	Is there a level of churn in the representation of senior management at partnership forums?
...the partnership accommodates different cultures	Is there evidence of an openness to working differently with Aboriginal and Torres Strait Islander peoples? Is the partnership planned to be culturally appropriate to the public/community/ setting.

4.1.4. Outcomes

4.1.4.1. Partnership performance

The extent to which...	
... partners address issues effectively, efficiently and in ways that are supportive of ongoing partnership effort	Are there planned, formal structures for sharing information and resolving conflicts?
... partners are aware of what makes for good practice and performance and work to creating and strengthening these	
... plans exist to deal with changing structures, leadership issues and communication problems	
... there are strategies for enhancing the skills of the partners and the partnership	
... positive partner relationships have formed and are being maintained	
... partnership effectiveness is reviewed and practices adapted as required	How is partnership monitoring information shared with partners? What learnings have been shared and how have they been acted on?
... the partnership influences the organizational decisions of partners independent of the partnership	

4.1.4.2. Partnership Outcomes

The extent to which...	
... agreed objectives are being met	How satisfied are partners with each other's performance?
... the partnership is perceived as being successful	Are partners satisfied with the partnership? What are the critical success factors? Are the benefits of the partnership evenly distributed across partners? Does each partner see a benefit in continuing their association with the partnership? Do benefits outweigh costs?
... there is widespread ownership of the partnership across and within all partners	
... individual partners meet their own objectives	Are partners delivering on their commitments?
... the Aboriginal Justice Agreement is 'known' and respected as a vehicle for change	Are community members more trusting of, or have greater confidence in, the organisational partners as a result of that organisation's participation in the partnership?
... the partnership provides for all relevant actors to have a voice	Is each partner comfortable in working with other partners? Are clear systems in place to address grievances between partners?
... are achievements of the partnership disseminated publicly	Is there sufficient recognition for the contributions of partners?
... the partnership adds value	What value is added through the partnership? Does the partnership add value rather than duplicate services?
... the partnership is sustainable	Is the commitment to partnership working sufficiently robust to withstand threats to its working? Is the partnership dependent for its success upon individuals? are partnership practices subject to continuous improvement?

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5. Approach

5.1. Evaluation framework

The evaluation was underpinned by the adapted Brinkerhoff framework described in Section 4 and a guiding set of key evaluation questions (KEQs). Together, these guided the focus of consultation with stakeholders.

The Terms of Reference describe the key objectives for the evaluation are to:

- Investigate whether the partnership model and governance structures of the AJA increase collaboration and contribute to improved justice outcomes.
- Explore whether self-determination in the justice system has been enabled through the partnership model and governance structures; and whether self-determination can be further enhanced.
- Determine whether the current partnership and governance models are still the most appropriate and efficient considering the changes in the landscape since the commencement of the AJA.

A set of key evaluation questions were also described in the Terms of Reference and these have formed the basis for the specific line of questioning used in interviews and have guided the document reviews, as described in Section 4. For the purposes of transparency we include the questions as proposed in the Terms of Reference.

1. What are the intended purpose and principles of the Aboriginal Justice Forum, Koori Caucus, RAJAC and LAJAC; and Koori Reference Group structures? Are these being met/upheld?
2. To what extent do the partnership model and governance structures improve accountability and community participation in justice and other relevant policies and initiatives?
3. To what extent do the RAJAC and LAJAC structures influence inclusion, engagement and decision-making at local and regional levels?
4. To what extent do Koori Reference Groups drive action and the progression of justice and other relevant policies and initiatives?
5. How efficient and how effective are the governance structures of AJA? What are their key strengths and weaknesses? Do they facilitate a 'joined up' government approach?
6. How do stakeholders define 'success' or 'health' of the partnership model and governance structures, and in light of that - how 'healthy' is the Koori community-government partnership?
7. What improvements could be made to the AJA governance structures based on evidence of effective practice, current requirements, and alignment with other governance mechanisms?
8. Is it possible to assess the costs and benefits of the Aboriginal Justice Forum?

5.1.1. Assessing the costs and benefits

One of the key evaluation questions proposed by the KJU when it released its tender documents for the evaluation asks if it is possible to assess the costs and benefits of the Aboriginal Justice Forum. This is not an easy question to answer for the AJF, just as it isn't an easy question to answer for any

complex social program aimed at addressing disadvantage. Typically, it is much easier to calculate the financial and monetary cost of implementing a program or, in this case, convening a forum although it should be said that there are also many costs that are difficult to quantify. Monetising the benefits of a partnership, particularly one like the AJF that is working across multiple domains and with outputs that difficult to articulate, let alone measure presents an even greater challenge.

At the heart of the assessment conundrum is the question - are we measuring the value of the partnership forum or its impact? The impact of the partnership implies a causal link between the activities of the Forum and the outcomes achieved by programs and other efforts by a multitude of actors. Value, in contrast to impact, is the cumulative benefit, where results are achieved across the justice system and the network of partners. While impact is focussed on the question of 'what' happened and to 'whom', value is focussed on the questions of 'why' and 'how' it happened. In these key respects, where impact is fixed at points in time, value is dynamic and driven by focussing in on the systems and networks. Where impact seeks to reduce and measure complexity, value seeks to understand and harness complexity towards designing effective policy, programmes and projects.

The value of the AJF occurs within the membership - consisting of positive changes in the members and/or the partnership itself and external to the AJF - consisting of improved conditions for the individuals and/or communities served by the partnership.

Individual AJF members gain value through their exposure to diverse expertise and knowledge, access to different cultural perspectives and approaches, widening of the perspective of analysis and interpretation, and facilitated access to local knowledge, contacts and perspectives that might otherwise be unavailable. The partnership itself benefits from all of these as well but also from the co-operative development of solutions to address justice challenges and the building of a mutual understanding and resolution of differences. Coming together at the AJF enables the pooling of intellectual resources to create larger and more extensive networks of knowledge and the state-wide collaboration increases the reach and impact of localised solutions and interventions.

If we were to explore the usefulness of a cost benefit analysis (CBA) of the AJF we would need to consider each of the multiple beneficiaries of the collaboration and the variations in benefit accrued to each. Direct involvement in the Forum delivers value to the member in the immediate term and would be expected to have a longer-term value to the organisation the AJF member is affiliated with through organisational capacity-building, cultural awareness and practice change. That organisational benefit will likely not be the same for an ACCO as it is for government agency in terms of effect and scope and will be difficult to quantify in either case.

Notwithstanding the challenges in identifying all of the benefits of the AJF, there is the issue of how they are measured. In practice, the included costs and benefits in a CBA tend to be limited to those that are easily measurable. Add to that the long-time frame required for the partnership to establish, for trusting relationships to form and for on-ground actions to bring meaningful change in such disadvantaged communities and we are compounding the challenges. As well as these general critiques of economic evaluations, critiques specific to evaluations of large-scale policies and interventions have drawn attention to three main areas: (1) determining the total costs of activity, (2) determining the 'wider' effects attributable to the activity and (3) putting a monetary value on the effects of the activity (Perkins et al 2015).

Taking Perkins first point - determining the total costs of the activity – we can identify five costs that would need to be factored into any CBA but that are exceptionally difficult to quantify.

1. Relational Costs – the success of the AJF rests on the relationships formed between the Forum members. In particular, its success rests upon the level of trust within the relationships which can only be built up over a long time period. Relational costs are those associated with the coordination of effort, cost of time spent in meetings and travelling to these meetings, communication outside of the Forum, building relationships, engaging in joint projects, etc.

Maintaining the relationship may require extra effort on the behalf of some of the members who, as we have heard through the evaluation interviews, have at times ‘gone the extra mile’ putting in time and effort beyond formal meetings. Capturing this extra effort, particularly in an evaluation conducted long after the event occurred is another of the challenges that a CBA would encounter.

Finally, in the case of the AJF there are numerous staff and other assistants who contribute to the functioning of the AJF but who are not directly involved in its running. Their effort would need to be quantified for inclusion in the analysis.

2. Personal Costs – The evaluation has uncovered that many partners, both government employees and community representatives, including those working in ACCOs and other Aboriginal organisations often draw on their own resources, use their own personal time and networks to aid their contributions to the AJF. We referred above to those members who go the extra mile to maintain the relationships of the Forum. There are other personal costs that are intangible, and these are costs associated with stress and burnout and the health and wellbeing effects this creates. There are studies that calculate the cost of burnout on a workplace but whether these methodologies can be applied to a partnership forum such as the AJF is questionable.
3. Systems Change Costs – the cost of systems and resources set up to support collaboration can be considerable as they require the development of new procedures and the allocation of additional resources. The KJU has been established with the prime function of supporting the implementation of the AJA including supporting the functioning of the AJF. However, inclusion of the cost of the KJU in an economic analysis fails to acknowledge that other partners may have also implemented system change in support of their participation. Additionally, it is possible that their system change may be supporting other collaborative forums and arrangements beyond the AJF. If we are to include the total cost of the AJF, then these would need to be taken into account.
4. Lost Opportunity Costs – economic analysts are always concerned with opportunities that are foregone as a result of directing resources to collaboration. The opportunity cost is the estimated benefit from the project not undertaken. We do not know whether partners have forgone other opportunities but if they have then this would need to be factored in to the analysis.
5. Future costs - as well as the upfront and ongoing operational costs, there are future costs arising from sustained actions, connections and evaluations. Estimates of the magnitude of staff and support costs are difficult to obtain because they are often embedded in the

expenses associated with other tasks⁹. <http://www.powertopersuade.org.au/blog/the-cost-of-collaboration-more-than-budgeted-for/13/4/2017>

Taking the above into account, we return to answering the question first raised in the Request for Quote: Is it possible to assess the costs and benefits of the Aboriginal Justice Forum? Our response to that is yes but we have doubts that any analysis would fully capture the total costs and benefits of the Forum. If it is not doing that, then what is the value in undertaking the economic analysis?

We believe that the information collected through the evaluation and outlined in the discussion below provides a good, although not economic, assessment of the costs and the benefits that the AJF is providing. We strongly believe that this evaluation is a sufficient, robust and valid informer of policy and that a cost benefit analysis would confound understanding because of the detail it would miss or fail to adequately monetise.

5.1.2. Evaluation audience

The evaluation has been conducted with a view to inform the following key audiences:

- Koori Justice Unit, Department of Justice and Regulation
- Koori Caucus
- Aboriginal Justice Forum
- Department of Justice and Regulation
- Signatories to the AJA3
- Regional Aboriginal Justice Advisory Committees
- Local Aboriginal Justice Advisory Committees.

5.2. Data collection

Data collection has been primarily driven by three tasks – document / literature review, qualitative data gathering through interviews and feedback received through a presentation to the AJF. Feedback has also been received from an Evaluation Steering Committee convened for the express purpose of providing oversight to evaluations conducted or commissioned by the KJU. Each of these tasks is described below. All data collection has been guided by the Evaluation Project Plan which was submitted to the Evaluation Steering Committee. A table showing the key evaluation questions and supplementary questions is provided in **Appendix A**.

5.2.1. Document audit and literature review

A document audit and review of the relevant literature were conducted to provide contextual information and compare key elements of the governance structures of the AJA with any similar government-community partnership arrangements (where possible). The literature review encompassed both Australian and international research. The literature review has been instrumental in driving the evaluation approach and is described in Section 4.

⁹ The above discussion has been informed by the discussion blog 'Power to Persuade' and the blog entitled The Cost of Collaboration: More than budgeted for?, 13 April 2017, retrieved from <http://www.powertopersuade.org.au/blog/the-cost-of-collaboration-more-than-budgeted-for/13/4/2017>

5.2.2. Interviews with strategic and operational stakeholders

A range of strategic and operational stakeholders were identified in collaboration with the KJU, the commissioners of this evaluation. Interviews were conducted with more than 100 individual stakeholders either separately or as part of a group discussion.

All stakeholder consultation was guided by an interview guide with specific questions tailored to interviewee role in the partnership. That is, at the LAJAC, RAJAC, or AJF level of the structure.

Information has been gathered from the following government agencies and business units:

- Department of Justice and Regulation including Koori Justice Unit
- Corrections Victoria
- Infringement Management & Enforcement Services
- Victoria Police
- Court Services Victoria
- Department of Health and Human Services
- Department of Education and Training
- Department of Premier and Cabinet
- Aboriginal Victoria
- Family Safety Victoria

Non-government organisations that have contributed to the evaluation include:

- Ballarat and District Aboriginal Co-operative
- Dandenong and District Aboriginal Cooperative Ltd
- Wathaurong Aboriginal Co-operative
- Gunditjmara Aboriginal Co-operative Ltd
- Njernda Aboriginal Corporation
- Commissioner for Aboriginal Children and Young People
- Victorian Aboriginal Child Care Agency
- Victorian Aboriginal Justice Advisory Committee
- Victorian Equal Opportunity and Human Rights Commission
- Eastern Community Legal Centre
- Aboriginal Housing Victoria

A full list of interviewees is provided in **Appendix B**.

5.2.3. Discussion Paper

A discussion paper was prepared using the information gathered through the literature and document review, and from the key informant interviews.

The paper described the partnership model of the AJA and sought the views of interested stakeholders. To prompt reflection, a number of questions, were posed throughout the paper.

The Discussion Paper was made available to all members of the AJF and to the RAJACs and their network in October 2017. The submission period closed 1 December 2017. Unfortunately only seven responses to the Discussion Paper were received. We consider that the timing for making the Paper

available was less than ideal and clashed with a particularly busy time for stakeholders. The timing coincided with the final AJF of the year and, being late in the year, many organisations had their attention on planning for the new year ahead.

5.2.4. Findings presentation

Findings from the evaluation were presented to the Koori Caucus when they met prior to AJF 49 on 11 December 2017. The findings were then presented to the full membership of the AJF the following day where Forum members formed three groups to discuss the findings in more depth and to provide suggestions where they considered improvements could be made.

5.3. Data analysis

The evaluation team undertook a preliminary analysis of the findings at a two-day workshop in October 2017. As part of this analysis, a process of inductive coding was used to identify themes that emerged from the data. Following the presentation to the AJF in December we incorporated additional data into the complete analysis.

6. Findings

6.1. Context

In this section we discuss the findings with respect of questions asking the extent to which:

- there was a need for the Aboriginal Justice Agreement
- there was a common and shared vision
- the objectives for the partnership were realistic and obtainable
- there was (and continues to be) political & community support for the AJA
- there was (and is) organisational and political commitment towards achieving partnership objectives
- partners are committed to working together and sharing their ideas, resources, influence and power
- the partnership is seen as a legitimate leader in the community.

6.1.1. Need for the Agreement

The need for the Agreement was first articulated in the findings and 339 recommendations of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) which reported in five volumes in 1991. Responsibility for implementing the Commission's findings rested with State governments and their service delivery agencies. The first recommendation of the Royal Commission made clear that governments should do this through a process agreed in partnership and after consultation with Aboriginal organisations. In 1997, a national Ministerial Summit examined the status of the implementation of the recommendations. A significant outcome from the Summit was a national agreement to develop jurisdictional based agreements in partnership with Aboriginal communities to move States and Territories forward in implementing the Commission's Recommendations. Following the Summit, the Victorian Government, in partnership with the Victorian Aboriginal Legal Service (VALS) and Victorian Aboriginal Justice Advisory Committee (VAJAC), directed efforts towards the development of the Aboriginal Justice Agreement (Department of Justice and Regulation 2005).

There was no doubt, at that time, that a new approach to addressing, not only Aboriginal deaths in custody, but the wider systemic, structural discrimination that Aboriginal people face in Australian society was needed. The partnership approach offered by the AJA was not only about government working in partnership with community, it was also very much about government agencies working together and breaking from entrenched siloed responses that isolated dynamic, complex issues into singular and static portfolio level problems. The tendency of government agencies had been to focus on highly visible and tangible pieces of what is a complex problem rather than adopting a more holistic approach. The signing of the AJA in 2000 was a first step, recognising "that it is not possible to tackle the over-representation of Aboriginals in the criminal justice system without also tackling the disproportionately high levels of Indigenous disadvantage"¹⁰.

The need for the AJA has not diminished over the period of the three phases. The over-representation of Aboriginal people in the justice system remains disproportionately high. Despite representing less than 1 per cent of the Victorian population, Aboriginal people made up 9.3 per cent of the total adult prison population in June 2017¹¹. The overall imprisonment rate for the September 2017 quarter in

¹⁰ Attorney-General Rob Hulls MP in the Foreword to the Aboriginal Justice Agreement Phase 1 (2000)

¹¹ Corrections Victoria Data Report to the Aboriginal Justice Forum, August 2017

Victoria was 145.5 per 100,000 adult population (the lowest of all states and territories). Aboriginal imprisonment rates for the same period were 1,929.3 per 100,000 equivalent population, over 13 times the rate for the total population. The imprisonment rate for Aboriginal males (3472.5/100,000) is 12½ times higher than that for the total population of Victorian males. The rate for Aboriginal females (384.1/100,000) is even higher at 19.3 times the rate for all females¹².

Aboriginal young people are also over-represented in the criminal justice system. As at June 2017 there were 109 Aboriginal young people in a youth justice detention centre, 15 per cent of the total detention centre population. Data for 2015-16 year prepared by the Australian Institute of Health and Welfare noted the rate of Victorian young people aged 10–17 under supervision on an average day in 2015–16 was 14 per 10,000. The comparable rate for Aboriginal young people was 152 per 10,000. Over the three year period from 2012/13 this rate had remained relatively constant, although had shown an increase in the previous 12 months (see Figure 6-1).

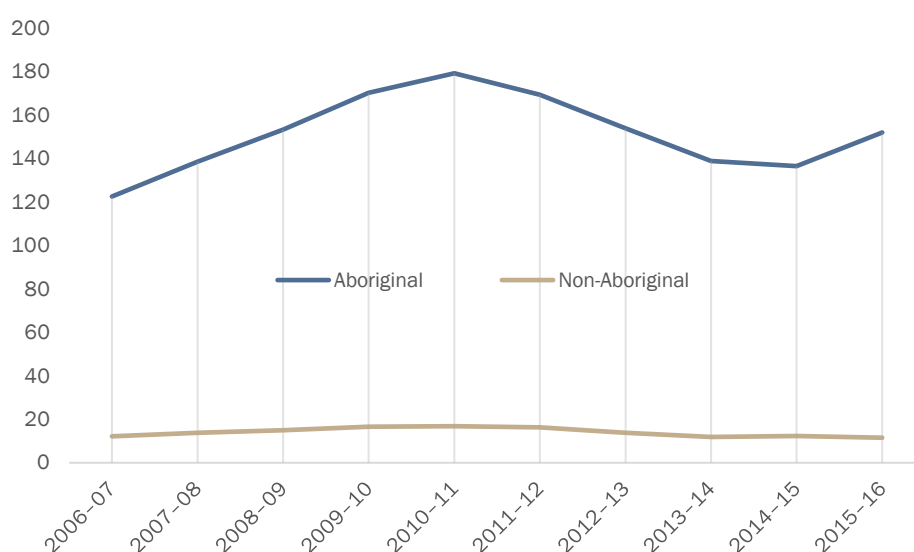


Figure 6-1: Rate of young people aged 10–17 under supervision on an average day by Indigenous status, Victoria, 2006–07 to 2015–16 (Source: AIHW Bulletin no. 139. Cat. AUS 211)

The over-representation is an outcome of a range of factors contributing to high levels of disadvantage in Aboriginal communities in Victoria which was recognised by the framers of the original AJA. To a large extent those factors remain and their relevance is reflected in the focus of the AJA, through three phases, on strategic objectives that fall beyond the scope of the criminal justice sector.

As we near the end of Phase 3 of the Agreement interviewees to the evaluation have consistently stated that the conditions that led to the signing of the first AJA remain as valid today as they were in 2000. This is not to say that these interviewees have not seen progress over the past 17 years. Rather, the issues were of such a magnitude that real change would take some time to show impact. While there is consensus that the AJA remains necessary there is also a recognition that the institutional landscape has changed considerably since AJA1. Specifically, other government agencies have developed portfolio-specific strategies to address Aboriginal disadvantage. The consequence of this is an extended demand on Aboriginal people to participate in a broader range of forums or other partnerships than was the case in the past and the establishment of alternative forums to discuss

¹² ABS Catalogue 4512.0 *Corrective Services, Australia*, September Quarter 2017

matters that were often raised at the AJF or RAJACs. One ex-Government stakeholder reflected on the environment at the time the AJA was created and how that environment has now changed.

... my view around the partnership was that it was great for Justice, it did enable a community perspective into the delivery of a range of Justice programs and that was fundamental because there were significant issues about how people were being treated by the police and by the prisons and in the court system as well. In government, it was difficult because of where the boundaries were around the Aboriginal Justice Agreement. Some of those things that the Agreement was attempting to do weren't strictly relating to Justice Services but to the kind of drivers for people entering into the criminal justice system. That was always challenging. When the Justice Agreement was set up there wasn't much else going on around those drivers. All across government. They [Department of Justice and Regulation] took that space, but as other agencies lifted their game a bit over time they've retreated from that a bit even though there still needs to be a focus on what's happening in community.

AJA4 will need to respond to the shifting landscape to retain its relevance to community and to other agencies that will no longer have a reliance on the access to community the AJA structures have previously afforded them. This is discussed further below.

6.1.2. A common and shared vision

Each of the interviewees understood and supported the overarching vision for the AJA, that of reducing the over-representation of Aboriginal people in the criminal justice system. Not only that, but interviewees also supported the vision for the partnership arrangements that puts effect to the Agreement itself. There was no suggestion of any alternative arrangement that would provide a more effective mechanism. Specifically, it was recognised that government working alone, even if it were more 'joined up' could not achieve the changes necessary to achieve the aims of the Agreement.

Six strategic objectives are defined in the Agreement that, if achieved, should contribute to the realisation of the vision for the AJA.

1. Crime prevention and early intervention

- Reduce risk factors associated with youth offending and increase protective factors.
- Minimise the circumstances in which Koories are at risk of negative contact with police.
- Increase opportunities for the ongoing involvement of Elders in AJA initiatives.

2. Diversion and strengthen alternatives to imprisonment

- Increase the rate at which:
 - Koori youth are diverted from the youth justice system.
 - Koories are diverted from further contact with Victoria Police.
 - The court system diverts Koories from further contact with the criminal justice system.
 - Koories are diverted from further contact with the correctional system.
 - Infringement Management and Enforcement Services diverts Koories from further contact with the criminal justice system.

3. Reduce reoffending

- Ensure conditions support the rehabilitation of Koori offenders.

- Address cultural strength, education, training and employment and mental health and social and emotional wellbeing, as protective factors that will help reduce re-offending for Koori prisoners and offenders.
 - Address individual offence-specific characteristics that put Koori prisoners and offenders at high risk of re-offending.
 - Ensure that Koories in custody are able to reintegrate effectively into their communities upon release.
4. Reduce conflict, violence and victimisation
- Develop the knowledge base on violence in Koori communities.
 - Prevent violence and increase the safety of Koori families and communities.
 - Address alcohol and drug abuse as a driver of violence.
 - Promote healing models for Koories that address underlying causes of violence and victimisation.
 - Reduce the impact of crime on victims.
5. Responsive and inclusive services
- Integrate AJA3 implementation into agency planning processes and operations.
 - Increase the number of Koories working in the justice system.
 - Ensure that justice agencies are culturally competent, responsive and inclusive.
 - Ensure that Koories have access to Koori-specific services.
 - Increase capacity to ensure high quality data, research and evaluation on Koori contact with the criminal justice system.
 - Increase the accountability of agencies that deliver justice services to Koories
6. Strengthen community justice responses and increase community safety
- Support the provision of local, place-based approaches and solutions to crime and violence prevention, diversion, rehabilitation and re-integration.
 - Prioritise community safety planning as a place-based crime prevention approach.
 - Develop a place-based strategy covering the North and West Metropolitan regions

As is the case with the Vision, these strategic objectives and the strategies underpinning them are accepted as the 'right' focus for the Agreement. There were, however, varied opinions as to how these objectives are operationalised in a way that maintains a focus on improved criminal justice outcomes and minimises duplication with other agencies strategies and plans.

With establishment of many new Government-Aboriginal community partnerships by other Departments and non-government bodies there was some concern of potential duplication and overlap of effort and resources at both the state and regional levels. The following comment from an interviewee in the Southern Metropolitan region highlights this concern:

I think with all those different groups there is duplication pretty much most of the time. If it's RAJAC or IFVRAG or it's the LAN. It can kind of come back to family violence. Obviously, family violence is a justice issue, yet it sits with the Department of Health and Human Services as well as the LAN, which covers the whole range of community interests. So, we can't say "oh, you can't run a family violence session or you can't do this or you can't do that because it doesn't sit within your remit". At the end of the day, regardless of what departments are doing, if you're in the Aboriginal space you get mixed into all of the issues. It's not just saying that's just for justice to deal with or that's for health and human services to deal with. There's cross-over. (Aboriginal Government Representative)

This interviewee (and others who offered similar insights) makes an important point that will need to be addressed as the AJA moves into Phase 4. There is overlap that cannot be avoided given the inter-relatedness of the issues being addressed. The question is, how do the partnership structures of the AJA minimise the duplication of effort and maximise beneficial outcomes. More importantly, what can be put in place to minimise the demand on community members who will likely be invited to participate in many of the alternative forums?

6.1.3. Objectives for the partnership were realistic and obtainable

We look at this question in two parts. The first focuses on the objectives for the partnership itself. The second focuses on the objectives for the Agreement as they relate to the partnership.

The objectives for the partnership are for the “Victorian Government and Koori Community working together to improve justice outcomes for the Koori community” (p. 61, AJA3). The framework and action plan with strategies and initiatives were planned to be implemented by:

- lead business units or agencies, through Koori Action Plans developed in partnership with Koori Reference Groups
- Regional Aboriginal Justice Advisory Committees, through Regional Justice Action Plans.

These two plans were to be embedded in the core business plans for agencies that are signatories to the AJA3, forming the basis for coordination of action across agencies and portfolios at state-wide and regional levels.

The overarching objectives for the partnership are realistic and have shown to be achievable given their resilience over the course of the past 17 years. Eleven business units within the government signatories had developed Koori Action Plans during the second phase of the Agreement and were finalised at commencement of Phase 3. The intent with the development of Koori Action Plans was to guide implementation of specific business unit-based initiatives arising from the Agreement. The Plans were expected to be the primary mechanism for agencies to plan and report on their implementation of AJA3 activities. Reporting and updating on Action Plans was expected to be a function of the KRGs and occur at the AJF.

The evaluation team has not reviewed these plans and we have heard mixed messages as to their usefulness as guiding documents. A process for updating Plans was commenced in 2016, however, it is not clear how many of the 11 plans have been updated. Reporting against the Plans typically occurs at the individual KRG and there had previously been a process of reporting at the AJF although, as we heard, reporting individually against around 1,000 action lines is neither possible nor overly useful (KJU Representative). It is understood that the most recent report on Koori Action Plans to the AJF occurred in November 2016 where a revised format was offered. The KJU prepared a report showing the key achievements and future challenges of the Koori Action Plans. The KJU has also trialled other formats such as ‘traffic light’ reports in an attempt to maintain its transparent approach and to keep the AJF aware of progress.

That progress against the Action Plans is no longer reported to the AJF suggests that the utility of the Plans to encourage action is diminished; or may have been overwhelmed by other strategic plans and the sheer volume of material considered at a typical AJF. It is not immediately apparent that the Koori Action Plans offer benefit to the implementation of actions emerging from the AJF, or indeed, from the KRGs themselves. While they do document a commitment to working towards AJA objectives, this commitment is captured in many other forms including ongoing attendance by government business units at RAJACs and the AJF, and in already existing corporate strategies, policies and business plans.

Regional Justice Action Plans are developed by the RAJACs and perform a similar function to the Koori Action Plans in that they document the actions that agencies and organisations in the regions will take to implement the AJA. In most RAJAC meetings, progress against the Plans is reviewed. This offers a useful accountability mechanism and agencies/organisations that have not implemented actions can be questioned by other RAJAC members as to the reasons for the lack of progress. Like the Koori Action Plans noted above, the Regional Justice Action Plans appear to have lost their ability to encourage new actions or innovation in addressing issues contributing to over-representation. Like the Koori Justice Plans they are typically used in a 'tick the box' type of fashion prompting little discussion about how things are progressing as a result of the actions and where things might be done differently.

During consultations we heard that Regional Justice Action Plans would be more effective if they covered a shorter time period, for example, 12 months rather than the current five years. This would prompt action to be achieved more rapidly and would allow the plans to be revisited on an annual basis and therefore be more responsive to rapidly changing environment. There are some constraining factors that make this difficult, not least being a lack of resources at RAJACs. The lack of resourcing of RAJACs is even more limiting when you consider that Regional Justice Action Plans are developed following an intensive period of community consultation. The ability to conduct such consultation on an annual basis is restricted and RAJACs may have to consider conducting one round of consultation that includes prioritising annual action areas for multiple ensuing 12-month Plans. This would not be ideal given the dynamic nature of the issues that arise and contribute to Aboriginal over-representation in the criminal justice system. An alternative approach may be to make use of online consultation options, for example, through the targeted use of social media. This could allow ongoing community input to RAJAC discussions and decision-making at less cost – financially and in human resource terms.

Recommendation 1 - Regional Justice Action Plans need to be responsive to the dynamic change that occurs in society and that generate new issues of concern to the RAJAC and its members. We recommend the introduction of annual Regional Justice Action Plans which focus on two to three priority issues. It would be the role of the RAJAC to determine annual priorities but their determinations could be informed through allowing for community input via online means (if not directly via attendance at the RAJAC meetings). We understand the KJU is considering expanding its online presence. This is an ideal time to also consider how that presence can incorporate the ability for community input.

As noted above, monitoring of the Regional Justice Action Plans typically occurs at the RAJAC. This monitoring is not typically an assessment of the effects of an action(s) in the Plan, rather, it is more typically an acknowledgement that an action has been completed. In many cases RAJACs are only able to provide anecdotal evidence of the outcomes achieved from actions contained within their Regional Justice Action Plans.

For actions that are expected to have wide-reaching or significant impacts (as determined by the RAJAC) it would be worthwhile to undertake a more thorough review of what has been achieved through the action and whether it has made an impact on any of the objectives of the AJA. Such a review would be beyond the capacity and capability of the RAJAC and would be better undertaken by experienced evaluators. For this reason, we suggest that the KJU's evaluation team be tasked with responsibility for such a review. It will be the responsibility of the KJU to determine the size and scope of any review undertaken.

Recommendation 2 - In developing their Regional Justice Action Plans the RAJAC should identify one action or initiative that is expected to have a significant impact and provide the details of the action, including lead agency/organisation to the KJU Evaluation Team to enable them to develop a methodology for a review. The purpose of the review is to determine the impact of the action against the objectives of the AJA. As it is possible that up to nine reviews will be required annually, it is likely that additional resources will need to be made available to the Evaluation Team to design and implement these studies.

We have already noted that, to some extent, the Koori Action Plans appear to be less of a priority for government business units, likely because of other corporate Aboriginal strategies and plans that are already in place. The Koori Action Plans do not appear to be a priority mechanism in driving action suggesting their relevance has faded. One of the functions of the Koori Action Plans is as an accountability mechanism in monitoring business unit action on identified issues. Provided this function is occurring through some other mechanism we see no reason for maintaining the Koori Action Plans.

Recommendation 3: The Koori Action Plans are not providing any benefit to the AJA that is not already provided through other mechanisms. We recommend that they be reconsidered. There is potential for the KRG Terms of Reference to be expanded to include any matters previously included in the Koori Action Plan that are not addressed either in the AJA, Regional Justice Action Plans or other procedural documentation.

The question of whether the objectives for the partnership are realistic and obtainable also refers to the objectives set for the AJA for reducing over-representation. Despite making little progress towards the overarching aim, interviewees were generally positive about the achievements that have resulted from the efforts of the partners to the Agreement. The AJA has been instrumental in effecting real change within Departments in terms of embedding cultural awareness and the adoption of an Aboriginal lens for the development of new strategies, policies and initiatives. The partnership structures of the Agreement have also championed the continuance of existing actions (e.g. the Koori Courts established under AJA1 and AJA2) and the implementation of new initiatives (e.g. Women's Diversion program) that are making a real difference to people's experiences of contact with the criminal justice system.

There was consensus that over-representation can be reduced but it was generally held that it will take more than the AJA to enable this change to take effect, although the AJA has been a driver for many of the structural and systemic changes needed. There are external factors that the partners to the Agreement have little control over that contribute to actions and decisions in the criminal justice sector disproportionately impacting Aboriginal people. However, through the partnerships that have formed under the AJA there is greater opportunity to inform and potentially influence decision-making of others outside of the partnership.

6.1.4. Community, organisational and political commitment towards the partnership

The AJA is an agreement of the government and it has had bi-partisan support since its inception. That the Agreement aligns with other government commitments to addressing Aboriginal disadvantage only further strengthens its legitimacy. Having an Agreement in place that is signed by parliamentarians provides an authorising environment to frame agency decision-making and resourcing. Agencies are able to frame business cases and resourcing requests with reference to the Agreement in the knowledge that support is already expressed. In saying that, we acknowledge that this has not always resulted in success where funding submissions have occurred, in part because other factors will also contribute to decisions around funding. However, the Agreement has removed one barrier to success in that it provides the rationale for funding requests.

The AJA is very much led by the DJR with support from other partner agencies. DJR established the Koori Justice Unit to support the AJA. One of the roles of the Unit is to build budget submissions for the funding necessary to implement the Agreement.

Since the commencement of the AJA in 2000 funding has been provided. Funding commenced with an initial \$1.6m Treasurer Advance which was furnished by an additional \$1.1m per annum in 2001/02, further expanded by \$3.4m per annum in 2004/05. A significant increase occurred in 2006/07 and saw a total of \$13.4m per annum allocated to Phase 2 of the Agreement. The initiatives identified in the action plan associated with AJA2 were funded largely through the \$7.3 million increase in the 2006/07 budget. These initiatives, including the creation of adult and children's Koori Courts and the Wulgunggo Ngalu Learning Place, continued to operate in AJA3 with the \$13.4 million funding allocation in subsequent years.

Although new funding was not made available through the Budget processes for the third phase of the Agreement, the funding that had been provided for AJA1 and AJA2 continued, as indicated in Figure 6-2. As the new initiatives identified in AJA3 were unfunded, the KJU and other business units were required to either attract funding from other sources or to fund initiatives from existing budget allocations. This has included:

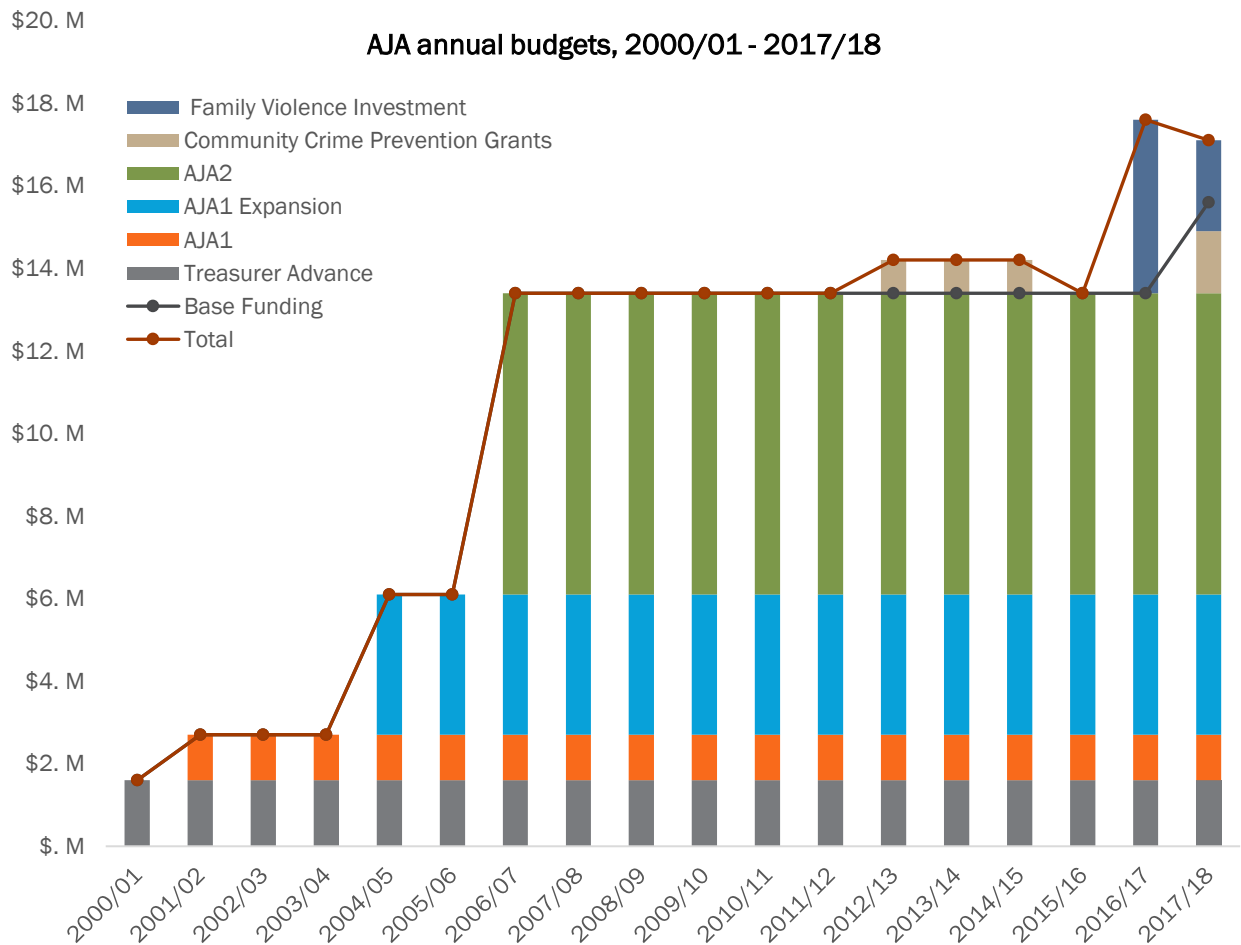
- Grants funding via the Community Crime Prevention Unit, comprising:
 - \$2.4 million for the Koori Community Safety Grants program in 2012/13
 - \$1.5 million for the Koori Youth Crime Prevention Grants in 2017/18
- Funds via the 2016/17 Family Violence Investment Package, comprising of:
 - \$1.55m for the Koori Women's Diversion Program
 - \$2.6m to recruit an Aboriginal Dispute Resolution Team in the Dispute Settlement Centre of Victoria
- In the 2017/18 state budget, further funding was received for multiple family violence initiatives:
 - \$3.66m over four years and \$1.21m ongoing was allocated to the continuation of the Koori Women's Diversion Program and its expansion to a fourth site.
 - \$3.19m over four years and \$1.062m ongoing to continue the Aboriginal Dispute Resolution Program.
 - \$11.0 million for culturally appropriate family violence legal services for Aboriginal communities.
 - Djirra (the Aboriginal Family Violence Prevention Legal Service) received \$4.29m (and \$1.43m ongoing) to offer its *Sisters Day Out*, *Dilly Bag* and *Young Luv* program. They also received funding to pilot the Koori Women's Place in Abbotsford.

- Dardi Munwurro received \$3m over four years and \$750,000 ongoing to commence the Ngarra Jarranounith intensive residential program for Aboriginal male perpetrators.

Since 2013-14, DJR, Courts, Corrections Victoria, and Victoria Police have contributed discretionary funding to increase the scale or scope of AJA initiatives. This funding support is not included in Figure 6.2.

The absence of a *new* budget, commitment for AJA3 has been viewed by agencies and, more importantly, community as a weakening of the commitment by government to the Agreement especially in comparison to that offered in the AJA2. However, the attraction of additional monies is noteworthy as one of the strategies for AJA3 in the absence of additional investment was to leverage other funded activities from agencies with commitment to, and a belief in the AJA partnership structures and processes to achieve the desired results¹³.

¹³ This partnership evaluation has not specifically investigated the effect of the steady funding allocation although it has been raised in interviews.



	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18
	Millions \$																	
Treasurer Advance	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6	1.6
AJA1	.	1.1	1.1	1.1	1.1	1.1	1.1	1.1	1.1	1.1	1.1	1.1	1.1	1.1	1.1	1.1	1.1	1.1
AJA1 Expansion	.	.	.	.	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4
AJA2	.	.	.	.	.	.	7.3	7.3	7.3	7.3	7.3	7.3	7.3	7.3	7.3	7.3	7.3	7.3
CCP Grants	.	.	.	.	.	.	.	.	.	.	.	.	0.8	0.8	0.8	.	.	1.5
Family Violence	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	4.2	2.2
Base Funding	1.6	2.7	2.7	2.7	6.1	6.1	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4	15.6
Total	1.6	2.7	2.7	2.7	6.1	6.1	13.4	13.4	13.4	13.4	13.4	13.4	14.2	14.2	14.2	13.4	17.6	17.1

Figure 6-2: Aboriginal Agreement Funding 2000/01 - 2017/18

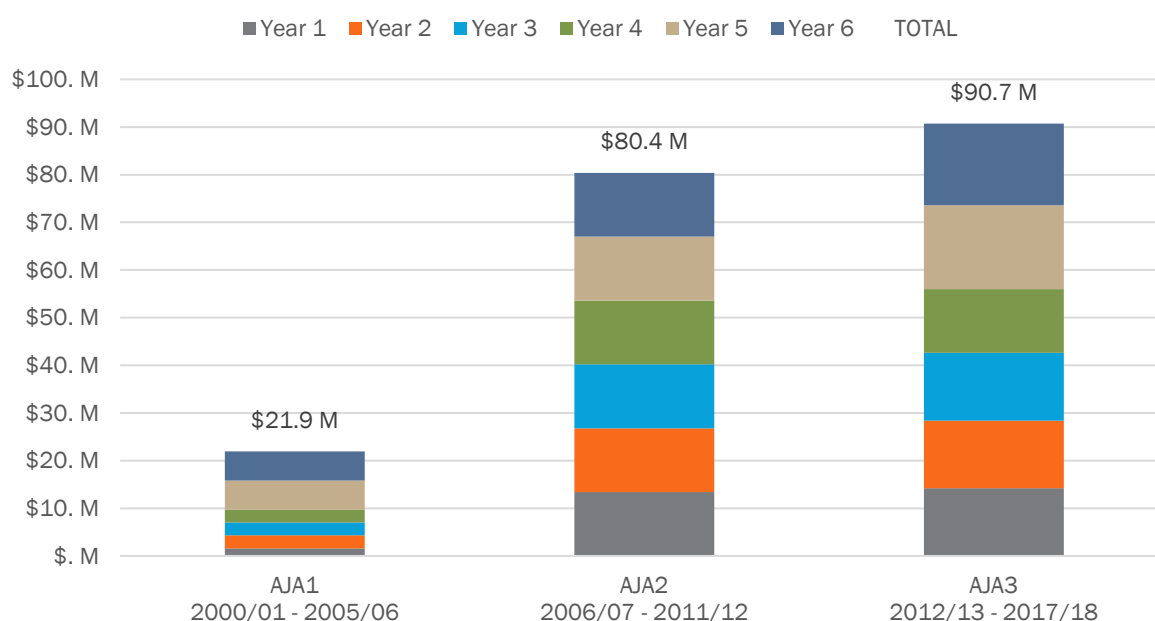


Figure 6-3: Total allocated budget for each phase of the Agreement

AJF Attendance

Government partners to the Agreement, namely the various business units within the DJR, Court Services Victoria, Victoria Police and the Departments of Health and Human Services and Premier and Cabinet have shown an ongoing but at times inconsistent commitment to the partnership evidenced in their attendance at RAJACs and the AJF.

We have conducted a review of the attendance register for the AJFs over the period of AJA3. It has not been possible to ascertain where, within some of the larger organisations, the commitments for attending sit. An agency such as DHHS, for example, is large and comprised of numerous divisions and branches. Attendance at the AJF from the branch level has shown consistency in some areas, particularly those that have a specifically Aboriginal focus such as Aboriginal Outcomes and Aboriginal Health and Wellbeing, but less in others. However, there are other indicators showing this Department's commitment to addressing Aboriginal disadvantage and the factors contributing to offending. The *Korin Korin Balit Djak Strategy*, released in October 2017, has a focus on the health, wellbeing and safety of Aboriginal people across Victoria and has been developed with recognition for the policy context of the AJA. This Strategy supports the commitment of the DHHS to improving health and wellbeing outcomes for Aboriginal people which should bring a flow-on effect to justice outcomes. Such a Department-wide strategy is applauded, however, the benefit of the AJF is the forum it provides for many different voices to be heard. For that reason, it is essential that initiatives and programs implemented by agencies whose work impacts in some way on criminal offending are communicated to the Forum. Whether this communication occurs through ongoing attendance by agencies such as DHHS and its housing, alcohol and other drugs, mental health, out of home care and child protection branches or through other mechanisms, it is crucial that information sharing continue for the long-term aims of the AJA to be achieved.

With regard other Government members of the AJF we have found Victoria Police and Courts have been consistently represented at the AJFs at the highest level, as has the Department of Education and Training, Koorie Outcomes Division. Attendance by the Department of the Premier and Cabinet

has been somewhat inconsistent in more recent years which may be a result of that agency's focus on establishing Aboriginal self-determination and Treaty.

A clear commitment to partnership working from the most senior levels of each partner organisation is an essential constituent for the AJA partnership structure. Senior representatives such as departmental secretaries and the Police Commissioner attend the AJF. There were some interviewees who were critical of high level government representatives attending only on the first day of the Forum and delegating to another staff member for day 2. One RAJAC Chair expressed some regret that this was the case, stating;

They could stay a little bit longer not just say their bit and leave but I understand the demands on their time. I think we should have more secretaries attend from the different departments. (RAJAC Chair)

The attendance records do not show where this has occurred so we are unable to make any judgement of the extent to which it happens nor the position level of the delegated attendee. We expect that if the delegated attendee is at a sufficiently high level (i.e. decision-making) then the impact on the Forum would be minimal. However, the 'optics' of attendance on one day only contributes to a perception that there is a lack of high-level commitment.

We suggest the major factors contributing to inconsistency in attendance are threefold. For agencies such as DHHS it is the sheer size of the organisation and the multitude of divisions and branches. As noted above, engagement with the AJF tends to occur at the branch level. A second factor contributing to inconsistent attendance, particularly in more recent years, is that the partner agencies have been focused on establishing their own, similar mechanisms for addressing Aboriginal disadvantage including the DHHS *Korin Korin Balit Djak Aboriginal Health, Wellbeing and Safety Strategic Plan 2017–2027*. DPC has been very much focused on progressing discussion on self-determination and establishing a treaty with the Victorian Aboriginal community. This refocus is likely to have shifted priority away from the AJA and towards their own priorities and initiatives. Finally, we have heard from several agency representatives that the Forum is not always providing meaningful benefit and this contributes to a view that delegation of representation is an appropriate response. Such a view is not without foundation. Successful partnerships, as discussed in Section 4, should be delivering a 'value-add' to all partners. If any partner is not receiving value from their membership it would be expected that their contribution (i.e. of senior level attendance) might lessen to match the value being derived.

The partnership is having to deal with the impacts of the changed environment. As one interviewee noted;

In the engagement process we've been missing Chairs because they're more engaged in the family violence space or in the children's forum, which is not a bad thing, but we are losing some of our key partners and our critical stakeholders because we haven't been able to keep up [with the demands from other forums]

The AJA will need to respond to the changed policy environment and, with the development of AJA4, some attention will need to be directed towards how it maintains engagement with these agencies. It will be especially important to consider what it means to the AJA in having responsibility for youth justice move from DHHS to DJR.

Victoria Police has shown an ongoing and strong commitment to the AJA and its objectives. A stakeholder from Victoria Police noted the efforts made by that organisation over the period of the

AJA3 and the commitment towards implementing further reform through AJA4 can be limited because they are not a funding agency.

When my community get to the police it's because they've navigated a broken system or they haven't been supported in the broader system. So, for anything positive to happen we require to be able to divert them to something that's going to be holistic, address the underlying causes and work to build their resilience for themselves, their family and the broader community. We're at the mercy of all these other agencies [to provide the holistic remedies]. If they keep saying "No", we're going to be stuck and we're just going to be processing people into the system and we don't want to do that. (Victoria Police informant)

This statement highlights the need for a cross-agency commitment and approach to dealing with the underlying causes of criminal offending behaviour. Addressing these causes can only partly be achieved by Victoria Police but can be more fully achieved if multiple agencies work together towards a common goal, such as that offered by the AJA.

The commitment of community representatives to the partnership, including representatives associated with Aboriginal organisations, remains strong although there is some frustration that more has not been achieved over the 17 years of the Agreement. Concerns were raised by a number of community representatives that the focus of the partnership is not as sharp as it once was and words are not being turned into actions. This is discussed further below in the section dedicated to the outcomes of the partnership (Section 6.4).

One factor that is impacting on the ability of community members to engage with the partnership relates to the situation described above where there has been a rise in the number of government-community partnerships established over recent years. The AJA partnership places demands on community members' time to attend meetings associated with RAJACs, KRGs, Koori Caucus and the three Forums per year. Many community representatives are in senior positions in full time employment as well as contributing to numerous committees, boards and other forums. Community representatives are now having to make decisions about how to prioritise their time and where they will get the greatest reward for the effort put in. Sometimes these decisions will be made on the basis of who will be sitting at the table. If a forum organised by DPC to discuss self-determination and treaty matters includes a government Minister it makes more sense for community representatives to attend that in place of other meetings scheduled at the same time. The structures established for the AJA are likely to suffer as a result. Already the KRGs are struggling to achieve a quorum of Aboriginal representatives and this is likely to continue at least in the short term.

[the establishment of more forums is] another thing that pushes and pulls community from left, right and centre. Then they have to choose. You have the self-determination and treaty, self-determination and the justice system, AJA4 development, DHHS social and emotional wellbeing plan development, Aboriginal Victoria doing their self-determination works as well on top of the treaty stuff... people who are in paid roles in fulltime jobs ... they have fulltime gigs supporting the community so where are they going to find the time to do this. Local organisations can let their staff go and do this other work because it's important but then the community suffer. They've been over consulted, bombarded... they get burned out. (KJU Representative)

One of the challenges noted by an Aboriginal government worker who sits on a number for committees is that the same people often sit on a number of those structures. This worker asked whether these committees are hearing *"the voice of the community or are we listening to the voice of Aboriginal workers that are working across agencies because that's pretty much who is sitting at the*

table at most of these events whether you go to LANS, LAJAC, RAJAC or the Kulin Balit committee. While we are very busy engaging in those processes and those same people are being drawn to the table at every one of them are we really hearing the voice of local Aboriginal communities?"

A somewhat different view was expressed by one KJU staff member who noted that while the state-wide /peak Aboriginal organisations were represented on a range of committees and forums across government, the RAJAC chairs and deputies were not and that there was very little overlap. This interviewee highlighted the importance of the RAJAC and LAJAC structures for broadening the base of Aboriginal community input into justice policy and decision making. Regardless, there is a continuing need for engagement with, and encouraging the recruitment of more people willing to represent their local community at the RAJAC.

Recommendation 4 - Given the number of forums, meeting, workshops and the range of consultations taking place it would be useful if government agencies holding these forums could better coordinate and communicate activity. Government cannot expect Aboriginal community members will be available for all forums but their ability to do so will be enhanced if they are able to see a schedule of all of the forums being planned for the next six months. A whole-of-government calendar of events could be developed and made publicly available to enable forward planning.

6.1.5. Partnership is seen as a legitimate leader in the community

The question of legitimacy is concerned with an understanding of whether the partners that are involved are the ones that need to be at the table. Do they have the necessary skills, capacity and time to contribute? It also asks whether the partners have sufficient decision-making authority and the necessary influence to make a difference.

Support for the AJA is critically dependent upon the investment made by Aboriginal leaders to the Agreement. It is widely recognised that the passion and profile of one leader in particular, Dr Alf Bamblett, was instrumental in driving the Agreement through the first two phases. His passing in 2015 was keenly felt by all who were involved with the AJA and it has been difficult to reignite the passion and fill the void left by his passing. New leaders have stepped into the breach and others are emerging.

One senior government interviewee noted a shift in the past year or two with a sense of stronger engagement with the Koori Caucus.

They were always involved ... but now they have a strong voice ...that is our key to success. The AJF and Koori Caucus voice is powerful and the department and the government take that voice very seriously. The Koori Caucus is a key stakeholder and highly regarded – policy design, development and interventions don't progress without the tick of approval of Koori Caucus. It has come a long way even since the beginning of AJA3 (Government Representative)

Aboriginal community controlled organisations (ACCOs) are crucial to the AJA not only because they deliver essential services to the community but also because they represent the community voice to the partnership. Their involvement at the local, regional and state level forums is particularly crucial where organisationally unaffiliated community voices are more difficult to engage. Representatives from ACCOs make up slightly more than 50 per cent of the Koori Caucus. Although representatives

from these organisations routinely sit at the AJF, in some regions it has become increasingly difficult to ensure their representation at RAJAC meetings. As a result, many RAJAC meetings are over-represented by government representatives with additional burden placed on the RAJAC Chair to represent the community voice. As noted above, the inconsistent attendance is not necessarily indicative of a lack of interest, rather many of these organisations are resource-poor and are having to prioritise where they focus their attention.

At the AJF level, representation from community is achieved through the participation of the Koori Caucus - RAJAC Chairs and representatives from ACCOs and Aboriginal peak bodies such as Victorian Aboriginal Education Association Inc. (VAEAI), Victorian Aboriginal Childcare Agency (VACCA), Aboriginal Family Violence Prevention & Legal Service (now Djirra), Aboriginal Housing Victoria, Victorian Aboriginal Community Controlled Health Organisation (VACCHO), Koori Youth Council and Victorian Aboriginal Legal Service (VALS). Organisational representatives tend to be located in Melbourne although have services that extend throughout the state. The regional view is largely expressed via the RAJAC Chairs.

The partnership has struggled to attract the youth voice except in circumstances where there has been specific attention to organising forums with a youth focus. The Framework of Operations guiding the operation of the RAJAC prescribes the membership composition to include a representative from the Koori Youth Council. This has rarely been achieved in any RAJAC and even where it has there is an argument that a member of the Koori Youth Council offers only one perspective of the youth voice.

An AJF with a youth focussed session was convened in 2015 with the Koori Youth Council playing a key role in engaging young participants and facilitating workshops over the two days. This was frequently referred to by interviewees as a particularly good forum as it gave voice to the young participants who were heard by all AJF members present. The enthusiasm expressed for this forum was, in part, because of the theme being of interest to the AJF members but also because it was said to have focused the discussions. However, this was a one-off event and has not been replicated at the regional level.

The October 2015 AJF had a youth themed approach and was the most effective I've seen. The theme helped to focus attention. A suite of information was provided by Youth Justice. A young people's session was held in place of the community forum and that was really powerful (Government AJF member)

One of the difficulties to consistently involve young people in the partnership is that the structure is not welcoming to youth and does not take account of the differing expectations of younger people.

... when young people come through the door and enter those opportunities how do you best support them in that space. Sitting around a justice forum space you've got Chief Commissioner of Police and sometimes parliamentary secretaries for justice - how is it that young people are equally seen and heard and engaged in that space was part of the challenge (Aboriginal Government Informant).

The Koori Youth Council, established in 2003, provides a voice to government and community of the views, concerns, ideas and aspirations of Aboriginal young people in Victoria. The appointment of a Commissioner for Aboriginal Children and Young People in 2013 saw a strong push to establish an Aboriginal Children's Forum focused on the safety and wellbeing of Aboriginal children and young people in, or at risk of entering, out-of-home care. While neither forum has a specific focus on criminal justice the work they are doing will have an impact on criminal justice outcomes. The AJF can draw great insights from these two bodies and their continued attendance at the AJF is important to

maintain. The ongoing difficulty is in attracting the youth voice at the regional level. Some regions are better placed than others to achieve this (and some RAJACs are already well-connected to the youth population) but all could be better supported to investigate how they might improve engagement. The comment noted above provides some guidance on the types of actions that could be implemented at the regional (and local) level to attract the youth voice.

Given the difficulty in attracting the youth voice across the board and community representation in some regions it would be useful for attention be directed to identifying the barriers to participation and what might need to be changed to attract more Aboriginal community members to the RAJACs, in the first instance. Participation might be improved through simple changes such as arranging for meetings to occur outside of business hours or, as noted above, making the venue and format more welcoming of youth. Perhaps it will require RAJACs to become much more focused for a certain period (e.g. 6-12 months) so that during that period they can attract people who have particular interests. Youth is one example where this could work but it might also focus on housing or education or employment. Involvement in such forums will be encouraged if participants are able to clearly see the impact they and the partnership is having and this will require improved communication of the evidence that things are changing.

Recommendation 5 - Attracting greater participation in regional (and local) forums by Aboriginal community members, particularly those representing specific interests (e.g. youth, education, housing, etc) is crucial for the ongoing relevance and effectiveness of RAJACS and LAJACs. Some efforts should be directed towards investigating the barriers that keep people away and addressing these so that participation is encouraged and new people are welcomed into the forum. To ensure diversity of views it would be beneficial to attract participation from community members who are not necessarily aligned with government or community organisations.

6.2. Structure

This section investigates the structures that have been established to deliver of the AJA. In this section we investigate the extent to which:

- the partnership structures and processes enable effective participatory decision making
- formal roles and structures have been laid out support ownership and accountability
- transparent mechanisms exist to manage financial and other resources each partner brings to the partnership
- partners contribute and allocate a fair share of resources (financial and non-financial)
- there is a clear commitment to partnership working from the most senior levels of each partner organisation
- the partnership structure recognises and values each partner's contribution
- the partnership allows for strategic alliances and joint working arrangements across organisational boundaries
- there are processes for review and evaluation of the partnership and the partners

6.2.1. Formal roles, structures and processes

The intention of AJA structures and processes (described in Section 2, Governance Structures) is to enable effective participatory decision making and support ownership and accountability. The structures were well established at the commencement of AJA3 and are operating much the same as at the time of their establishment. There has been minor fine-tuning of process aspects of the structures but this has largely been around reporting and communications.

6.2.1.1. Aboriginal Justice Forum

The structures as they stand now are generally supported by interviewees. That they were devised through a process of collaborative engagement between government and community is highly regarded. In doing so, the structures have responded to cultural expectations of community members including operating the AJF with a co-chair arrangement (government / community), the layout of the Forum in a circle arrangement, and the creation of the community forums at each of the AJFs.

The venue for the Forum is rotated through the regions and allows for a Welcome to Country to be performed at each AJF giving an opportunity for a local Elder to welcome members and to share their own experiences in the region.

We heard that the AJF is conducted in a respectful way with all members having an opportunity to have their voice heard. Interviewees noted that decision-making processes, lines of communication, roles and expectations of partners are well defined but they also highlighted the challenge of implementing the structure efficiently. For example, it was reported that regional issues are sometimes raised at the AJF without having been through the RAJAC.

For me that wasn't working. If the RAJAC was working it would have been discussed [before the AJF], there would have been strategies and reporting and we would have been aware of the issue. It was almost like it was back to front. (Regional DHHS member)

Consequently, when this occurs representatives at the state-wide level are unprepared to respond on the spot and have to refer back to the regional level.

6.2.1.2. Regional Aboriginal Justice Advisory Committees

The Framework of Operations¹⁴ guides the RAJAC operation including criteria for membership (Refer Section 2.3 for the list of community members and government representation). The roles of the RAJAC Chair and Deputy Chair are filled by Aboriginal people who are connected to community and to 'the justice space'. Increasingly the chairs are or have been part of an ACCO.

Interviewees have suggested that the membership list contained within the RAJAC Framework of Operations does not accurately reflect the attendance at all RAJACs. Currently seats for community members are open to anyone and the KJU encourages changes depending on what best suits the community. One interviewee has observed a diverse range of people sit on the RAJACs who might not strictly fit the categories specified. However, they attend every meeting, they are engaged in the process and they are important to that community and contribute positively to the RAJAC. Such attendees would never be excluded but if the RAJAC were strictly following the guidance contained in the Framework of Operations they might inadvertently exclude unaffiliated community members who offer great insight. We understand that the Framework of Operations is being reviewed to ensure that the membership categories accurately reflect the intent of the AJA and the capacity of regional

¹⁴ From the Regional Aboriginal Justice Advisory Committee Framework of Operations, 19 June 2017

communities to contribute. It will be important that any revision to the Framework of Operations do not inadvertently exclude any members of the community who wish to engage.

Elections of the Chairperson/Deputy Chairperson are held by secret ballot every two years in the first meeting of the calendar year. The KJU coordinates the process with scrutineers drawn from the RAJAC membership. A call for nominations for the positions is generally made on the day of the RAJAC meeting. There is currently no limit to the number of terms a Chairperson or Deputy Chairperson can serve. While there are benefits to imposing limits to the number of terms a Chair can consecutively serve including the respite the Chair would receive, it is ultimately a decision for the community to make through the election process. What is important is that opportunity is provided for eligible community members to nominate for the role and those that do nominate to be provided with the necessary support and direction to do so.

To assist in opening up the candidate field the KJU could offer mentoring or other capacity building support. Such capacity building is a key strategy of the AJA and so fits with the overall intention. It needs to be understood by all candidates that the role is demanding in terms of time and energy. It requires certain skills in communication, negotiation, conflict resolution, facilitation and strategic thinking. There also needs to be recognition that the role is not always viewed favourably by the community as one Chair noted;

It's not an easy role. A lot of Koories don't want to have anything to do with the forum because there's still distrust. They say "all you do is sit around". (RAJAC Chair)

If being a RAJAC Chair were the only role that these people were dedicated to it would perhaps take less of a toll but most of the Chairs are either in employment and are also contributing to a range of other boards and committees. It is a complex role and not all candidates will be suitable. Some consideration must be given to succession planning which includes expanding the pool of potential candidates through recruitment and with capacity building.

Recommendation 6 - KJU investigate options to assist RAJACs in recruiting new community members to the RAJAC and developing the leadership capacity of new members that they might take on a leadership role in the RAJAC. This capacity building opportunity should also be made available to existing Chairs and Deputy Chairs. An amendment to the RAJAC Framework of Operations will be required to expand eligibility to community members not affiliated with an ACCO.

6.2.1.3. RAJAC Executive Officers

RAJAC Executive Officers have been described as the glue that holds the RAJACs together. They play a crucial role as the conduit between community and government and between the wider community and the RAJAC. The Framework of Operations describes the responsibilities of the EO for the following activities but their actual role typically extends beyond these:

- Provide key support, secretariat services and advice to the RAJAC including the preparation of meeting papers, agenda, venue, catering and minute taking
- Provide key support, secretariat services and advice to the LAJAC including the preparation of meeting papers, agenda, venue, catering and minute taking (where the region doesn't have a LAJAC Project Officer employed)

- Maintain regular contact with the RAJAC Chairperson to uphold the partnership and implementation of AJA3
- Attend, participate and support the RAJAC Chairperson's participation in AJA related activities including the Aboriginal Justice Forum, Koori Caucus and Koori Reference Groups.
- Actively promote the AJA and Community Grants Programs in the region.
- Engage and consult with members of Aboriginal Communities, Cooperatives and groups in the region to identify key issues for Communities and work in partnership with others to address the underlying causes
- Act as a senior advisor to regional Justice Program areas on issues affecting Aboriginal clients and serve as a point of connection between DJR service workers and community service providers in efforts to improve client outcomes.
- Actively develop and maintain cross agency linkages for the RAJAC and provide leadership between the Koori community and justice agencies
- Manage, co-ordinate, monitor and assist in the implementation of the RAJAC Regional Justice Action Plan
- Report regularly to the RAJAC and Koori Justice Unit on the regional implementation of the AJA3 and related initiatives
- Report regularly to the RAJAC, Regional Director, RAJAC Chairperson, and the Koori Justice Unit on justice issues impacting on the Koori community
- Represent the RAJAC and the Koori Justice Unit on other related forums as directed.
- Provide a written monthly report to the Regional Director and Deputy Director, KJU

This is an extensive range of responsibilities. RAJAC EOs are faced with a number of challenges, not least being the scope of their work. Some of the other challenges are:

- A sense of isolation – EOs are located within the DJR Regional Offices and several EOs noted that their role is often not well-understood by other DJR staff members in the office and they can feel excluded from the everyday activities. All EOs come together on a monthly basis at DJR Melbourne where they can interact and share stories with other EOs. The monthly meeting of EOs is an important get-together and helps to ease some of the anxiety of working in isolation in the regions. Many have established strong relationships with other Aboriginal liaison officers in the region (e.g. Local Justice Workers or Sheriff's Aboriginal Liaison Officers and Police Aboriginal Liaison Officers). Professionally, support for EOs will typically come from the Koori Justice Unit which provides an induction to new EOs and coordinates the monthly meeting. The KJU feeds information into the EO meeting and, in turn, will provide information back to the KJU in terms of the issues being identified in the regions. What has been described is the formal arrangement for management. The reality is that EOs will often seek support from the Manager Stakeholder Engagement in the KJU, an Aboriginal man with a deep understanding of the role of the EO and the issues they encounter. This support is not a formal part of the Manager's role but is accepted as his responsibility to the EOs and to the wider community.
- On-call to the community – by necessity RAJAC EOs must be connected to their community. The connection enables them to best understand the issues being encountered and helps them to develop appropriate solutions. However, this connection also means that EOs are often the person a community member will call in a crisis and these calls are more than likely outside of business hours, including weekends. RAJAC EOs tend to be 'on call' 24 hours a day, 7 days a week and this can lead to burnout if not managed successfully. One RAJAC EO, very

aware of the potential for burnout, will take himself out of the role and onto country where he can rest and regenerate before coming back to immerse himself in the role. Not all RAJACs are taking the same opportunities. It is important that their Line Managers understand the demands on the time and energy and to encourage time away from the role as often as is needed.

- On-call to the agency – while the number of Aboriginal employees in government agencies has increased considerably over the period of the AJA there are few in management positions within the DJR and particularly in regional offices. This results in the RAJAC EO often being called upon to provide guidance to Regional Directors on Aboriginal matters including assistance in building organisational cultural awareness. RAJAC EOs are currently at Level VPS5 and will be invited to participate at Executive Team meetings. The disparity in levels can make it difficult for EOs to speak up and be heard. Given that they are typically the highest ranked Aboriginal employee in the region their current level of recruitment should be reconsidered in light of their roles and responsibilities.
- According to some interviewees, EOs can be seen either as community members who work for government or as government employees who help and support the community. There is uncertainty and confusion, for example, about which meetings they can attend. We heard varying views as to whether the EOs were able to attend the Koori Caucus meetings. Some interviewees advised that the Caucus meetings were closed to Caucus only while others noted that this position had changed and EOs were in attendance. Some formal clarity on this matter is required.
- RAJAC EOs and LAJAC Project Officers report to Regional Directors in each of the regions with the exception of the Western Metropolitan Region where they report to an Assistant Director. During the evaluation we heard the benefits of, and issues with having these AJA support officers reporting regionally. There is general agreement that a position that is based in the regions will be better served if co-located with the line manager in the region they are serving. Line Managers will have a greater understanding of the regional issues and should be able to offer support when it is needed. However, given that EOs are calling upon KJU staff for mentoring support and other assistance there may well be some inconsistencies in direction given. The current arrangement appears to be the most appropriate but some thought about the impacts of this on EOs should be undertaken.
- There has been some difficulty in recent months to fill vacant EO positions. At one stage the EO role was seen as “the job of choice” for Aboriginal job seekers but with the increase in the number of designated roles available there has been a lessening of interest. If, as the EOs have expressed, there is a lack of understanding in the regional offices about the role of the EO less attention may be directed towards succession planning, career development and training and recruitment strategies. This is a challenge for both the regional office and the KJU who both have an interest in attracting and retaining staff.

The above discussion has identified a number of areas where improvements might be made that would assist EOs in their role. RAJAC Executive Officers are a crucial lynchpin to the LAJACs and RAJACs as well as to the operation of the Koori Caucus and thus the effectiveness of the AJF and the KRGs. EOs are at the centre of the network of Aboriginal liaison roles in the regions helping integrate the work of the SALOs, PALOs, LJWs, KYJWs and other staff with responsibility for Aboriginal clients. They are currently under-supported in terms of resourcing and professional development. The expectations for the role by both government and community do not appear commensurate with the position level (VPS5) nor with the assistance offered. We recommend additional resources be allocated that assist EOs in carrying out their duties. In larger regions such as Gippsland, Loddon Mallee and Barwon South West access to a dedicated vehicle would assist EOs in travelling to all

parts of the region. Consideration of dedicated administrative support would also benefit EOs and enable them to concentrate their efforts on more strategic matters. It may also allow EOs to expand their roles to better address specific regional issues.

Recommendation 7 - As a first step we recommend that KJU independently evaluate the position description for EOs against the tasks actually undertaken and the responsibilities of the role. There is an opportunity to expand the role in the regions so that it becomes the key coordination position for Aboriginal justice matters. We would expect that any evaluation of the role would closely consider the resourcing sufficient to perform the tasks delivered by the EO and the professional development needs of the EOs to contribute as leaders in their communities.

6.2.1.4. Koori Reference Groups

Of all the structures that have been established under the AJA the one which attracted the most criticism is the Koori Reference Group (refer Section 2.5 for an overview of the 7 KRGs).

KRGs were first initiated under AJA2, during the period of 2006-2012. The KRGs were initially created to provide community input to government business units as they developed their AJA Actions plans. In 2016 the role of the KRGs were expanded such that they support the implementation of AJA initiatives and action of items raised in the AJF and to ensure Koori Caucus partners have oversight. The intent is to progress government business at the KRG to reduce the demands on the AJF and allow it to concentrate on high level strategic business.

There is considerable difference in opinion on the KRGs. Although they are seen by some as a useful accountability mechanism and a good forum to exchange information in a meaningful way, attendance is inconsistent and some groups struggle to achieve a quorum. We understand that there have previously been attempts to rectify issues with the operation of the KRGs including a restructure implemented in 2014. There remain concerns that the groups are not adding the benefit that was envisaged with their creation.

Many interviewees felt the KRG was a good concept but that it was not working in practice.

Some good things come through the KRGs and some good work gets done but there's got to be a better way than that to do that work - the demand is too great we can't continue to operate that way. (KJU representative)

Some considered the KRGs were a place of robust discussion while others thought they acted in more of a 'tick the box' fashion. With regard the Youth KRG we have heard that its broader focus, that is, beyond justice matters, made for a difficult fit with actions identified in the AJA. Others thought the membership was too narrow to offer a truly place-based approach;

KRG does drive action however it needs greater representation and input from local communities and Aboriginal organisations. (ACCO representative)

One interviewee proposed refreshing the KRG structure by organising around multidisciplinary themes, such as youth justice;

Why aren't we looking at youth justice as a reference group and having all of the players at the table. To me that would be a more effective use of our time because it is requiring

everyone to be together and to problem solve and to walk away with commitments to address the issues. (Victoria Police Member)

Others, however, simply stated that the KRGs need to be replaced entirely and suggested that resourcing for greater autonomy in the regions would enable place-based initiatives to evolve that could respond more effectively at the local level. That would mean that the decision-making in the KRGs could be devolved to the regional level with input from the RAJACs. This suggestion has merit but further consideration of how it would work in practice is necessary.

Some of the explanations expressed for why the KRGs were not functioning well are process-related. The seven KRGs meet over one day in Melbourne three to four times per year. Three sessions are run with two KRGs meeting in the concurrent first two sessions and three in the final session. Koori Caucus members will have to travel to Melbourne (generally the day before a KRG) and will need to make themselves available to attend at least one, but generally more, KRGs. Government representatives tend to be based in Melbourne and usually sit on only one KRG so do not encounter the same issues as Koori Caucus members. Most Caucus members have nominated a portfolio(s) of interest aligned to each KRG which assists in maintaining consistency over time. If two of the KRGs are meeting in the same session they will need to choose which to attend and, if possible, nominate a proxy to attend the other. Such an approach has been designed to ensure coverage across all KRGs and enables reporting back to Koori Caucus of the key activities in each of the portfolio areas. It is not known, but would be worth investigating, the extent to which portfolio matters are discussed at the Koori Caucus meetings held on the day following the KRGs. Unfortunately, this question was not put to Caucus members during the data collection but is important to understand in the context of increasing demands on Caucus.

While most KRGs struggle to achieve a quorum of Caucus members, the KRGs, as the place where actions are defined, progressed and monitored are important and there is support for this function. However, the general consensus is that they are not functioning as well as expected. Several attempts have been made to improve the functioning of the KRGs but in most cases there have been unintended consequences that then need addressing. There are clearly resourcing and scheduling issues that need to be addressed to improve effectiveness. There may be opportunities to use information technology more fully not only in the dissemination of papers but also to facilitate discussion and debate. Use of web-based platforms may not necessarily negate the need for a face-to-face discussion but it could alleviate issues around receiving information in time to allow for a thorough review.

We routinely heard that the KRGs was not sufficiently focused on strategic matters. Rather, the KRGs have become overwhelmed with details of individual issues and do not have an eye to enabling systemic change. If that is the case then it is a waste of expert resources for the one day that the KRGs are meeting. This is a meeting of senior level bureaucrats and senior community leaders who have considerable experience in the issues contributing to the high rate of over-representation. Their role is to assist in the implementation of the AJA3 initiatives for which specific government business units have responsibility. This should not be a 'down in the trenches' role but offer more of a directing function advocating for change at the policy level to assist in resolving the wider systemic issues.

Because Aboriginal affairs in Victoria is in a state of flux it would be practical to retain the KRG in the short-term. However, there is clearly a need for change but what form that change takes needs to take account of what is already in place and any new structures that might emerge from the discussions around self-determination. Additionally, any amendments to the functioning of the KRGs must be developed collaboratively with the Koori Caucus members who are the most impacted by the current KRG processes.

Recommendation 8 – The KRGs are currently not functioning effectively, largely due to resourcing and scheduling issues but also because a lack of role clarity. We recommend the KRGs remain in place at least in the short-term. To assist in improving their functionality, we recommend that the KJU investigate the benefits of using web-based platforms to allow more frequent communication between KRG members. This evaluation has only skimmed the surface of what the underlying issues are with the KRGs. As such, we recommend a more in-depth analysis of the diversity of opinions about the KRGs and to better understand all of these positions. With this understanding in place the KJU should work with Koori Caucus to determine whether, and in what form, the Koori Reference Groups might continue, if at all.

The continuation of the KRGs may be required if it is decided to bring the AJF back to a focus on criminal justice matters (as discussed below in Sections 6.2.2, 6.4.1.2 and 6.4.2.7 and in Recommendation 16 on Page 90). The KRGs could be one structure that maintains the links between the ‘reset’ AJF and other government forums that have been established in the interim years.

6.2.1.5. Koori Justice Unit

KJU has responsibility for a range of time-intensive activities including:

- coordination of three Forums each year in various locations across the state (including some locations with limited infrastructure to support such a large gathering)
- oversight and reporting against all the AJA initiatives
- preparation of submissions to Expenditure Review Sub Committee
- strategic policy and coordination
- administration of grant funding – about \$6m to community organisations – and other grant funding, such as under recent Family Violence ERSC money – about \$6m
- support of the RAJAC network in the regions
- monitoring and evaluation of funded programs and provision of data to others such as the Family Violence Partnership Forum
- briefing to Ministers and Executive Branch
- engagement with and representation on various committees.

With 15 FTE staff, the KJU is stretched in meeting all of these commitments. Several staff members we spoke with during the evaluation relayed how they were often required to respond to issues outside of their stated position responsibilities. These types of comments have been common across many stakeholder groups that we have interviewed – people are undertaking tasks beyond their area of responsibility that would otherwise not be addressed but that are seen as essential to achieving AJA objectives.

Although we have not conducted an organisational review of the KJU it does appear that current staffing numbers are insufficient to meet the responsibilities and expectations for the unit and for the AJA. Below we make recommendations that, if accepted, will require additional resourcing to the KJU to enable those recommendations to be acted upon.

One further point on the matter of staffing; there are currently two management positions employing Aboriginal staff members – the Director and Deputy Director positions. These are designated positions, that is, only Aboriginal and/or Torres Strait Islander people are eligible to apply. All other

positions within the Unit are 'identified' with a preference for Aboriginal employees. At the time of this evaluation, over half of positions were filled with Aboriginal employees. We expect that the staffing requirements for the Unit provide good career development opportunities for Aboriginal employees to progress to roles with higher levels of responsibility.

6.2.2. Partnership allows for strategic alliances and joint working arrangements across organisational boundaries

The partnership itself could be considered a strategic alliance as it has brought together a broad collection of actors (agency and community) to work together towards achieving the objective of the AJA. This is both an accomplishment and a challenge for the partners. When the AJA was first executed some 17 years ago it was the only partnership structure of its kind that enabled this collaborative approach to problem solving. The connection that the AJF and the RAJACs provided between government and community was sought after by many agencies and by the Aboriginal community organisations as a means to identify and address issues.

The authors of the AJA in all three phases have understood that achieving the objectives requires consideration of matters that are beyond the scope of criminal justice agencies. The partnership structures expanded to include membership from these other non-justice agencies and that has been seen as a positive and fruitful expansion. It has enabled the AJF to look for remedies beyond their boundaries and many of these have had, and are continuing to have, a positive effect on the rate of contact Aboriginal have with the criminal justice system. For some AJF members it has also led to a broadening of the focus beyond solely criminal justice matters.

As more and more agencies began to establish their own partnership arrangements (often modelled on the AJA) there has been an increasing level of overlap and duplication of effort. There is certainly a greater demand on the time and expertise of community members who are invited to participate in the ever-expanding range of forums. However, with the establishment of these other Departmental forums there now exists an opportunity for the AJF to take stock and reconsider what its focus might be for the coming phase of the AJA. There is no getting away from the fact that criminal justice effects are the consequence of non-criminal justice experiences and events and the AJF cannot lose sight of this but, as a result of their long term involvement in the AJF, these other agencies now have a deeper understanding of the potential future impacts of their own policy decisions. Policy officers at the Department of Education and Training understand how continued engagement in education can keep young people from criminal offending. The Housing Branch of the Department of Health and Human Services understand the importance of housing for prisoners transitioning to the community. Their involvement in the AJF has opened up a holistic view of their policy decisions in a whole-of-government context and there is no doubt that the message has been amplified through the voices of Aboriginal community members at the Forums.

With the new structures at other agencies the AJF can afford to re-focus its attention on criminal justice matters providing they have robust lines of communication with the other forums and a mechanism of referral of issues raised at one forum that might be better addressed by another. How this is established needs further consideration, however, it may require the execution of a Memorandum of Understanding or for communication to be facilitated through Secretaries Group meetings. However it is achieved, the opportunity for a reset has been heightened by the establishment of the new forums (see Section 6.4.2.6 for further discussion.)

6.2.3. There are processes for review and evaluation of the partnership and the partners

There are processes in place to monitor progress towards achieving the objectives for the AJA but this evaluation is the first formal evaluation of the partnership itself. As previously noted, a revision to the functioning of the KRGs was implemented in 2014 after members of the Koori Caucus expressed some dissatisfaction with its operation. At that time, KRGs were scheduled and held by business units. The challenges expressed by Caucus members were that:

- Many Koori Caucus members were members of multiple KRGs.
- KRGs were often not proceeding due to a lack of quorum (at best three community representatives);
- This had led to a backlog of business unit work.

The KJU facilitated a series of workshops in 2014 to explore the role of the Caucus in the AJF and more broadly. The Caucus recommended the KJU, in its role as secretariat, support the group to look at streamlining KRGs. It was suggested that KRGs be held in conjunction with the Koori Caucus meetings held in between AJFs which could enable:

- the majority of Koori Caucus members to be present for meetings
- maximise community consultation opportunities
- reduce the overall burden of consultation for both government and community.

This is the form that the KRGs are presently taking but the changes do not appear to have resolved the issues first raised in 2014.

It is understood that the KJU is also reviewing the Framework of Operations guiding the operation of the RAJACs to ensure the Framework remains relevant. No further information was gathered on this review except that it demonstrates that the KJU are engaged in monitoring the operational aspects of the AJA partnership arrangements.

The relationship between members of the Koori Caucus and the KJU is such that Caucus members can bring any operational issues to the Unit and be assured that they will be investigated and, where necessary, actions will be taken. The longevity of the AJA has fostered the strong relationships between the various partners and enabled a responsive environment to develop.

6.3. Process

6.3.1. Partners trust and respect each other to commit and deliver on commitments

The AJA partnership has now been in place for over 17 years and while there have been many changes in membership there are a considerable number of members who have been involved over many years, some since its inception. Strong personal relationships have developed across organisational boundaries that are premised on genuine trust and respect. These strong relationships are not only the result of individual preferences and attributes but have been supported through the structures of the AJA that enable responsiveness, accountability and accessibility.

The partnership between the Victorian Government and Koori community is fundamentally about relationships and surrounds the model. The AJA simply cannot exist without it, expressed at local, regional and state level. These partnership structures have matured

over the years, enabling increased collaboration through a positive spirit of confidence and trust (Aboriginal Justice Agreement, p.61).

This is not to say that differences of opinions and views don't occur. They do. It is only because there is trust that such differences can be raised with an expectation that they will be heard and responded to. Because of the relationships that have been established it has been possible for individuals to make contact with each other outside of the formal structures as this comment from one Government member of the AJF highlights.

I believe the forum [AJF] has given Koori Caucus members confidence that we listen. They know they have a direct line into [agency] and know that we'll respond (Government AJF Member)

We have previously discussed the concerns regarding attendance by senior government representatives at the AJF on day one only and a delegation for day two. Several Koori Caucus members have noted this as showing a lack of respect for the partnership. We are not aware that this view has been relayed to the members who are attending on day one only.

A number of action items have been recurring over several forums. One action item that was frequently referred to in interviews with Koori Caucus members was that of confirmation of Aboriginality. A number of Caucus members expressed their frustration on this matter in particular and wondered whether it is seen as a priority by those who are working on it in government. An ACCO member attributed the lack of AJF-related action to the persistence of government siloes:

The partnership model is strong but it needs constant effort from partners to maintain that relationship, e.g. regular communication. The AJF has previously been efficient and effective. However, a current weakness has been the recent reduced priority on government meeting action items determined at the AJF. Government representatives previously had a stronger focus on ensuring they were proactive in responding to AJF action items. The government approach is not joined up – government departments appear to be working in siloes with their approach being fragmented/patchy. (Aboriginal Community Controlled Organisation)

In more general terms, both Caucus members and government representatives of the AJF did indicate some frustration that some action items have remain unresolved over a number of Forums. However, AJF members can be confident that these matters will remain on the Action List until they have been resolved to the satisfaction of all members. At present all action items are equally weighted with no item taking priority over any other item. In most cases, it would be difficult, and likely counter-productive, to rush a resolution simply to remove an item from the action list. AJF members do understand the importance of responding appropriately and in an evidence-based manner to what are complex issues. However, when there has been agreement for an action to be pursued and it remains outstanding over a number of years dissatisfaction should be expected. At present there are no formal mechanisms to escalate the dissatisfaction other than raising it at the AJF.

The extent to which there is trust and respect at the regional level varies between regions. In some regions we have found very strong levels of trust between members of the RAJACs and this has enabled very flexible responses to issues that have been raised. For example, strong relationships between Sheriffs, police and Aboriginal liaison officers in the Barwon South West region means that police are comfortable in the abilities of Local Justice Workers resolving issues before they escalate rather than immediately responding with a prescriptive or bureaucratic reaction. In other regions there

appears less or inconsistent engagement by government agencies with the RAJACs and this might be read as a lack of respect for the structure of the RAJAC.

6.3.2. Partnership has well-defined leadership

The structures of the AJA have well-defined leadership at all levels and these leaders show a continuing commitment to the AJA.

As the lead agency to the AJA the DJR is represented by the Secretary at the AJF table. The Koori Caucus is represented by the RAJAC Chair of the region in which the AJF is hosted.

RAJACs and LAJACs have a designated, elected Chair whose roles and responsibilities are defined in the Framework of Operations. RAJAC Chairs and some LAJAC Chairs are supported by an Executive Officer, a DJR employee located in the regional offices. Some LAJACs are supported by Project Officers, also located in DJR regional offices.

The Koori Justice Unit is integral to the functioning of the AJF, RAJAC and LAJAC networks and the delivery of the AJA and related programs.

6.3.3. Partnership ethos of collaboration, communication and learning

Two questions were put to interviewees that asked what they gain from their involvement in the forums (whether that is at the state-level AJF or the regionally-based RAJACs) and, what do others gain from the involvement of the interviewee's organisation at the forum. In response to the first question most interviewees noted the benefit associated with gaining access to others operating in the justice space. Government representatives appreciated the opportunity of being able to engage directly with leaders within the Aboriginal community to learn from them and to gain a better understanding of the issues of greatest importance. Such contact has enabled personal relationships of trust to develop which allows contact outside of the forums and can lead to the resolution of issues that might otherwise escalate before being addressed.

A second benefit gained by Government agencies attending forums is that it presents a visible indication of the commitment of the organisation to the Agreement and this has an influencing effect internally. Staff and clients can see that the agency is fully committed and can be held accountable for any actions that do not fulfil this obligation. Some agencies referred to a flow-on accountability effect whereby staff hold a personal commitment to accountability for meeting AJA objectives.

The accountability function of the forums is also seen as a benefit to agencies who understand they "don't always get it right" (Government AJF member). Over the 17 years of the Agreement, and because many in leadership positions have been consistent over the long term, the relationships between members of the forum have matured and strengthened. Some government agencies are critiqued harshly in forums which can be "pretty uncomfortable" but there is a shared understanding that the aim is to effect change. In holding agencies to account, the Aboriginal representatives are concerned not only with how an issue is dealt with but the individual's response to the issue – is it genuine and is there a sincere commitment to address it? Having strong and trusting relationships through the forums has brought some confidence that problems and issues raised at the forum will be addressed.

In relation to the second question, Government representatives felt that the forums provided an opportunity to share information with the community and with other agencies. Some of this information sharing is around the statistical data of, for example, trends in contact with the criminal justice system. The justice sector is a complex and multi-faceted space where the simple

presentations of statistics is often not sufficient to present the 'whole story'. The forums provide an opportunity to present information in context. An upward trend in any indicator does not show the factors that have contributed to it nor the actions being taken to address it. Being able to present the complexities of information and of the factors that influence decision making is highly valued for both the agency presenting it and the recipients of the information. An example offered by Corrections Victoria highlights this well.

Sometimes I have to make decisions that might seem at odds with what the Aboriginal community thinks or wants. If we take funerals, for example. We do our best to allow prisoners to be released to attend family funerals. But I have to balance this with safety and security of the corrections system. Because we've formed such good relationships with Caucus members I've been able to explain to the community forum why we aren't always able to let people out. I was able to explain that if we allowed high-risk prisoners out and something went wrong then it would make it difficult for everyone who came after. When you get the chance to explain the rationale for our decisions people are much more accepting of them.

The example offered above shows how the forum has enabled trust to develop between government and community representatives and how this trust and understanding flows to the wider community as a result.

Koori Caucus members, however, have expressed some frustration that the AJF does not offer the opportunity to fully discuss issues. The agenda is full and time tends to be taken up with information provision and there is little time for discussion or debate. As one Koori Caucus member noted;

... anything that comes out of the RAJAC then gets taken up the line [to the AJF] but at the AJF level it is all about presentations and people might make a comment and that but I don't think there's much learning involved or much take away. I think sometimes we've been to state forums and we think what's the purpose of this ... what did we achieve? I personally have raised things and they haven't been dealt with so I think what's the purpose of going, what's the point of my involvement? It can be very frustrating (Koori Caucus member)

This is not an isolated view amongst the Koori Caucus. A second issue raised by a Caucus member relates to the frequency of communication.

I think there's a need for everyone that's involved to be kept in the loop and I think sometimes it seems to be "oh, the forum's happening" so it's all around the forum instead of ongoing communication. The Caucus does meet outside of the forum but they're the meetings you can't get to, so, the attendance of the Caucus might be a bit haphazard It's not free flowing open communication.

6.3.3.1. Information Flow

A variety of views were encountered when questions were put to interviewees about how information flows from one structure to another. There is no shortage of information presented to the AJF with a typical agenda including regional reports and multiple discussion papers. Many interviewees noted that the volume of information provided and the short timeframe offered for review presented a barrier to information flow as there was too much for members to realistically absorb prior to an AJF meeting.

Views on the effectiveness of information flow from the RAJAC to the AJF (and vice versa) are mixed. We heard of one instance where a major long-standing issue of localised criminal activity was first

raised at the AJF that had not previously been discussed at the RAJAC which took the Department representative the issue was directed at by surprise.

Information flow from the AJF to the RAJAC is the responsibility of the RAJAC Chair. RAJAC members felt that they were generally well-informed of the discussions that occurred at the AJF particularly those directly related to their region. It would be useful for the Chairs to be able to present a copy of the minutes from the AJF at the next RAJAC meeting following the forum. These minutes may need to be specifically prepared for the purpose of dissemination to ensure that any confidential information is redacted.

There are opportunities to improve information flow and provision without overwhelming partners with paperwork. Greater use could be made of online platforms that makes relevant information available. Provided it is easy to navigate, the AJA partners could negotiate their own way around the platform and access the information of most interest in their own time.

Recommendation 9 – Online platforms enable real-time and ongoing communications to occur and provide a useful mechanism to share and disseminate information, either to selected members of a portal or publicly. The KJU should investigate how to expand their online presence so that information can be shared outside of the formal face-to-face forums.

6.3.4. Equality in decision making, resource exchange, partner representation and participation

Strengthen community justice responses by supporting the right of Koori communities to participate as equal partners in the development, delivery and evaluation of all justice-related policies and programs specifically impacting the Koori community. (Principle 7, AJA).

A key principle of the AJA is equality in the partnerships between the Aboriginal community (represented at the LAJAC, RAJAC and AJF) and government. There is no doubt that all partners ascribe to this principle but in practice there remain structural power imbalances that are difficult to redress within the existing partnership arrangements. That opportunities are provided for the voice of the Aboriginal community to be heard is not sufficient to claim that the partnership is equal for all partners.

Having the justice forum where you have that equal partnership at the table with community voices and senior level government representatives should facilitate a greater understanding of the issue and an opportunity for the partnership approach to propose solutions. For me the frustrating bit is that, as an Aboriginal person from Victoria, it appears that the Aboriginal voice has less ability to require government departments to effectively respond. In Aboriginal community there is what is called "deep listening" and there's some government departments that are not listening. They hear the frustration but they don't understand it's driven by not being heard (Government Aboriginal representative)

At the heart of the inequality is the disparity in resources made available to each of the partners. Here government representatives hold the greatest power as they have access to the majority of resources. Members of the Koori Caucus have very limited resources available including one important resource,

time. As we have noted previously, many Caucus members hold full-time employment and are required to take time out of their jobs to attend to Caucus business. Even those that are no longer employed are contributing to other forums and committees. We acknowledge that senior government officials are also time-poor but the activities described in the AJA are the core business of the agencies they lead and not an addendum to their work. There is also the issue of support resources – researchers, policy officers, administrative assistants and the like. These supporting staff are available to government members of the AJF (and RAJACs) but are not available to Caucus members. This lack puts the Caucus at a disadvantage in comparison to the other participants in the state and regional forums.

The disparity in resourcing is also financial. Government agencies have all of the financial resources and ultimately make the decisions about where that money will be spent. The financial decisions will be influenced to a lesser or greater extent as a result of the discussions and deliberations of the forums but ultimately decisions and accountability for those decisions rests with government. The Koori Caucus as well as ACCOs sit in a client-patron type relationship with government, meaning genuine equality cannot be achieved.

Imbalances also occur at an individual, as opposed to institutional, level. As the venue for the AJF is rotated through the state (and this is appreciated) the role of Aboriginal Co-Chair will rest on which region the forum is hosted. The Departmental chair has the advantage of always being in the role and growing in understanding, confidence and competence in carrying out the duties that come with the role. Our observation of attending two AJFs is that the Departmental Co-Chair tends to proportionally lead the chairing to a greater extent than the Aboriginal co-chair. As the Aboriginal Co-Chair role continually changes there is less opportunity to gain from the experience of co-Chairing in an ongoing way.

... some RAJAC Chairs are there to represent their local community to ensure that issues are raised. Beyond that they might be looking for somebody to understand we're raising it but we're expecting you to pick up on the issues and run with it. Other chairs are quite strong and strategic and therefore able to challenge equally at the table. It's a dilemma in itself. You're getting people there because they are representing their local issue but with varying degrees of ability to influence (Government representative).

In discussions with RAJAC Chairs we heard that some are more confident in the co-Chair role than others and because they inhabit the role so infrequently they are unable to build their confidence and competency. There may be opportunities outside of the forums for Chairs to build their confidence through mentoring or other learning possibilities.

The role of chairperson is crucial in ensuring participation, following up on all actions, and ensuring frank and fearless discussion to generate better justice outcomes (Government AJF member).

Both RAJAC and LAJAC Chairs play an important role in the realisation of AJA goals. Amongst other roles they are the voice of the people in their respective communities. They are advocates, champions and change agents who are expected to engage with a very broad range of people in positions of power on behalf of the powerless. Such advocacy requires skills that many have but others do not. Building the capacity and confidence of RAJAC and LAJAC Chairs will benefit them as well as the communities on whose behalf they are working. It will also help to achieve equity between the Chairs (and community representatives) at the local, regional and state forums and the Government representatives who will have had greater access to skills development through their employment.

Recommendation 10 - That LAJAC and RAJAC Chairs and Deputy Chairs are surveyed to gain an understanding of their need and desire for skills and capacity development to assist them in their roles. Once the needs assessment has been completed the KJU should facilitate the necessary training for those interested.

In the New Zealand context Michael Peters has questioned whether genuine partnership can be achieved between such unequal entities as the state and its indigenous people. He distinguishes three main notions of partnership as they affect education policy in New Zealand. The first is strongly connected to the notion of “community” and “governance”; the second is the notion of partnership inherent in the model of “public private partnerships”; and the third is a concept of partnership construed as “collaboration”. He suggests the first two notions mask power relations while the third is more visionary and arises in the context of the social knowledge economy as a form of collaboration that builds on the principles of social media. This is the ideal for the AJA partnership.

Community partnership is intended to draw together government, private enterprise and community in pursuit of common goals. Peters suggest this model actually shifts responsibility from states onto communities [employing] performance management techniques often framed in terms of “empowerment” and “engagement”. Public-private partnerships, he argues, is typically government service delivered through the private sector driven by user demand and the pursuit of cost-effectiveness. A collaboration, on the other hand, is a mutual and reciprocal partnership between professionals and community who engage and make use of personal networks as the best way of transferring knowledge and supporting change. It may be best to classify the AJA as a collaboration between government and community. If not a collaboration, then there needs to be an acknowledgement that there are aspects of the partnership that are not equal.

6.3.5. Partner takes responsibility and is accountable to others for its actions

There are two main mechanisms by which partners are held accountable for the actions. The KRGs assisted business units within government to develop Koori Action Plans. RAJACs have developed Regional Justice Action Plans. Both of these plans set out the commitments of agencies and others to deliver on actions to contribute to achieving the objectives of the AJA.

Progress of actions outlined in the Regional Justice Action Plans are monitored at RAJAC meetings and responsible agencies/organisations will be required to account for their progress by other members of the RAJAC. This monitoring function also occurs at some of the KRGs. Other KRGs no longer track progress against their Koori Action Plans which are now seen as out of date. We have earlier recommended that Koori Action Plans be discontinued (see Recommendation 2 on Page 48).

The second accountability mechanism is the minutes recorded of the AJF discussions. These minutes, including actions arising, are documented by the KJU and made available to the Inter-Departmental Committee and the KRG and Koori Caucus. Progress against actions is an ongoing agenda item for each AJF and forum members have an opportunity to query action progress and completion.

Some concerns have been raised that the minutes do not always match the recollection of participants. One Koori Caucus member noted;

In my experience, the minutes have had gaps in them...you say what about this discussion and that sort of thing. (Koori Caucus member)

We understand that KJU has offered to digitally record the proceedings but this offer was not agreed to by the Forum. To ensure better capture of the discussions the KJU now uses a number of note-takers with each of the notes compared and compiled before dissemination. The Koori Caucus is in the process of recruiting an Executive Officer who will take on an expanded role now that funding has been made available for a full-time position. Once this position is filled it would be beneficial for the Caucus Executive Officer to document the minutes of AJF proceedings to minimise differences of opinions on the discussions that have taken place.

6.3.6. Strategies are planned to ensure that alternative views are able to be expressed

Hosting the AJF in different regions around the state provides a good opportunity for out-of-region AJF members to understand the particularities of other regions. One very important mechanism that is highly regarded is the community forum. This provides a forum for any interested community members to put questions to any members of the AJF and, more importantly, to seek a satisfactory response. These community forums can sometimes be uncomfortable for agency staff but they are an important demonstration of the willingness of government to listen to the community and to make efforts to address the issues that have been raised. For many senior government managers, the community forums are the only place where they hear the individual stories of hardship and despair that characterise the lives of so many Aboriginal people caught up in the criminal justice system.

Community meetings are a special opportunity. A community member can speak directly to the Police Commissioner. It's a really good thing for those of us in these public roles to face the community and feel the sentiment on the ground. (Aboriginal Peak Body representative)

Two regions have established a community forum modelled on that of the AJF which operates during RAJAC meetings. Those two regions are Hume and Barwon South West. The ability of community members who are often not otherwise engaged with the RAJAC an opportunity to attend and raise issues is seen as a very positive addition to the RAJAC agenda. It is appreciated by both community and RAJAC members and offers nuanced insights into issues faced by individuals in their everyday lives. At times the issues raised will be unique to the individual raising them, at other times, they will reflect broader systemic issues that the RAJAC can turn itself to addressing. In both cases, resolutions can be discussed and actions to address the issues put in place.

6.3.7. Partnership accommodates different cultures

All members of the AJF and RAJACs exhibit cultural awareness and respect for cultural protocols is expressed in each meeting. Building the cultural awareness of non-Aboriginal members is seen as an important requirement for any who serve on the AJF. Those we spoke with who have undertaken cultural awareness training noted the value that it provides to them in carrying out their work roles.

When I did the cultural competency camp at Shepparton I spent a night out in the Barnwood forest. Aside from the training there was also immersion with the community group and learning about stories and cultural history. It was interesting and valuable to me in doing my job (Government AJF representative)

6.4. Outcomes

Two outcome domains are discussed here at two levels: first at the level of performance against the criteria for effective partnership and then at the level of achievements and perceived success in the justice system and beyond.

6.4.1. Partnership performance

6.4.1.1. Efficient collaborative practice

To a great extent the partners have addressed performance issues effectively, efficiently and in ways that are supportive of ongoing partnership effort. There is awareness of what makes for good practice and performance and partners continue to work at strengthening these practices.

Victoria Police interviewees highlighted good practice at both senior and local levels. Senior leaders attend the AJF and its community forum, appreciating the direct contact with community members, while at the local levels,

they wear their relationship with the RAJAC Chairs and the Executive Officers with pride so when things don't go to plan there's a real impetus to actually look at what fell over and why couldn't you bring that to us so that we can resolve it together at the local level. There's a real desire to keep reinforcing that we're there, we're central, we're open to be able to be held to account. (Government AJF representative)

Interviewees support the partnership and do want to see it continue but suggest that there are areas where improvements can be made. A frequent comment from many different interviewees representing community and government was about the need for a sharper focus on action, as reflected in the following comment:

The AJA model is fantastic - there's respect, openness, true engagement and genuine listening. But in the AJF, there's a sense of the same old thing - cycles of talking and a lot of good thinking. But where's the strategy? We could improve accountability by focusing on five or six big initiatives and track actual progress, based on a theory of change. There is a lot of reporting back but I sometimes wish it was a bit more rigorous. We could start the meeting by reviewing actions against goals. To ensure traction and reflect on impact. [There needs to be] ongoing and deeper monitoring. (ACCO representative)

This suggestion for focusing on a limited number of priority areas was also offered by several government AJF members. As noted previously, many interviewees referred favourably to an AJF held in 2015 which adopted a themed approach. This approach was seen as focusing attention on one area (youth) and enabling far-reaching discussion on a range of factors driving offending behaviours in young Aboriginal people. We support the implementation of a theme-based approach to the conduct of the AJFs believing that it broadens discussion and can generate 'out-of-the-box' solutions to ongoing and seemingly intractable problems. Such theme-based approaches should help to drive 'big ideas' rather than issue specific actions. It can help to build deeper understanding of the context encouraging critical thinking. Rather than limit what can be discussed, a theme-based approach opens up discussion and dialogue.

Adopting a theme-based approach will require some changes to the way that the AJF are planned. There should be agreement between AJF members on what the themes are for each year. The youth theme has previously been explored (and can again be explored if the AJF sees the merit in doing so). Other themes might include 'access to housing', 'employment and employability', 'sentencing and

diversion', 'connecting to culture' or 'responding to racism' or example. These are issues that were discussed as factors contributing to imprisonment and offending but there are likely to be many more. The themes should be broad but maintain a justice focus. Subject matter experts could be invited to present on the theme and encourage debate. The aim is to generate new ways of thinking about old problems and activate new ideas that can be explored and potentially implemented creating new outcomes in criminal justice.

The following suggestion from one Government representative (paraphrased below) highlights what could be achieved if the AJF took a high level, big picture view:

If you ask me what the top priorities are I would say bail decisions around Aboriginal kids - we have an increase in recidivism around youth offending. As a result of that we are remanding more Aboriginal kids in the system. That's leading to worse outcomes than getting bailed because they are getting remanded into a system that is not set up well for them in the first place. Working collaboratively with the community we might ask what other options might be there other than remand. The arrest might be a trigger to a community intervention with that person to discourage further offending. Perhaps that person doesn't have their family around or they're from another state and staying with relatives and they're committing offences. What does wrap-around support look like because they're out there committing offences. The system says, well, we remand them now. That's not going to benefit that kid one bit. What does an alternative program look like with police and community in partnership and DHHS and education potentially. What does that support look like that might actually get us making decisions to not remand but get consent from the young person to get involved in this community program. That's one example but what we're doing at the meeting is looking at the data. And the data is saying young Aboriginal men, and now increasingly girls, are now more represented in the remand population. We look at that stat but don't do anything about it. The forum should be the strategic opportunity to talk about a piece of work to try and address that...

This is exactly where a theme-based approach is ideal as it looks at the wider context, the 'triggers' and proposes actions to address the triggers and not the outcome (i.e. the statistic of young people on remand).

Recommendation 11 – One AJF each year should be dedicated to identifying three key themes for the subsequent Forums. Identification of the themes should be based upon issues that have emerged over the previous 12 months that have been highlighted by RAJACs, Koori Caucus, KRGs and government business units or that have emerged from an analysis of criminal justice data. The KJU may offer suggestions for themes for consideration by the AJF if this assists in expediting the process. Themes should be aligned to the priorities for the AJA. Once determined it will be the responsibility of the KJU, in collaboration/discussion with the AJF members (out of session) to create an agenda aligned to the theme. Creation of the agenda will include identification of speakers/presenters particularly those who might offer a view not typically encountered at an AJF.

The theme-based approach proposed in our recommendation can also assist in addressing the issue raised by one Departmental AJF member who voiced a concern about the agenda:

A frustration we have is the conversations have been about 50% of the time about issues and responsibilities of DHHS. It's frustrating to see a whole lot of issues around justice for Aboriginal people don't get a lot of air time at the forum. We need clearer demarcation on what we deal with at the AJF and what could be better dealt with elsewhere. (Departmental AJF member)

We heard similar frustrations exist at the regional level where RAJAC members reported some dissatisfaction with management of agendas and decision-making. For example, one government stakeholder perceived the RAJAC as operating solely for information sharing and networking:

At the meetings I have attended in the last year and half I don't think we had one agenda item which required a decision. In terms of what the department gets out of attending, it's just the opportunity to network with another range of stakeholders in the space and an opportunity to present work the Department is doing in this space. (Regional Departmental representative)

Another Departmental interviewee described raising similar concerns about discussions being more action-focused, finding that others agreed, but seeing no change in practice within the partnership. A theme-based approach may work at the RAJAC level but this would need to be a decision taken within the RAJACs as they vary in terms of the operation.

6.4.1.2. Plans exist to deal with changing structures, leadership issues and communication problems

The AJF membership has expanded over the years as it has accommodated the broadening of interests to address the broader determinants of contact with the criminal justice system. There has always been an acknowledgement that addressing over-representation of Aboriginal people in the criminal justice system requires directing attention to elements outside of the system, elements such as housing, education, child protection, mental health and the like. AJF membership now reflects this wider view and is considered by many interviewees as “too big”.

One of the consequences of the expanded membership that was most reported by interviewees is the impact it has had on discussion at the forum. This was variously described as “not as rich”, without “passion”, and too “polite”. Further, the forum has been described as “information sharing and not problem solving”.

We have conducted interviews with almost all of the AJF members and without exception each has raised some concerns with the effectiveness of the forum. There has been an overwhelming recognition that current arrangements are not as effective as they need to be and there is a desire for a refocus, if not a full reset. There is also a general agreement that now is the time to do this. The majority of interviewees have stated that the expanded membership, while necessary at the time, is no longer adding value and has caused the AJF meetings to become “transactional and not transformational”.

Recognising that there is diversity across the regions in how each RAJAC is structured and operated, concerns were raised that some RAJACs have become too process oriented and focus too much on the actions identified in the Regional Justice Action Plans. In itself, monitoring achievements is a necessary and useful exercise but only if there is evidence that achieving the actions has led to change on the ground with regard the objectives that are being sought. It was also said that in performing this accountability function the RAJAC meetings are left with too little time to discuss

emerging issues and how they might be responded to. We have heard from several interviewees that becoming more responsive might be aided through the introduction of Regional Justice Action Plans covering one year only. This would assist in focusing attention on one or two priority areas and would provide more opportunity to introduce emergent issues into the plans. The RAJACs that are experiencing “stagnation” are struggling to define a way out.

A regionally-focused group has been established in the Loddon Mallee region – the Loddon Mallee Aboriginal Reference Group (LMARG). LMARG is a consortium of ACCOs who are committed to working cooperatively and taking a joint approach to addressing issues. LMARG provides a mechanism for the delivery of regional health and wellbeing programs and projects within a framework of self-determination. LMARG members include: Bendigo and District Aboriginal Cooperative; Mallee District Aboriginal Services in Mildura, Swan Hill and Kerang; Mungabareena Aboriginal Corporation in Wodonga; Murray Valley Aboriginal Cooperative in Robinvale; and Njernda Aboriginal Corporation in Echuca.

This group meets quarterly over three days. The first day is devoted to the CEOs of the ACCOs. On day two they might dedicate half a day to human services and half a day to health, Day 3 might dedicate a half day to justice and the other half to education. The group invite representatives from those sectors to attend in the relevant sessions. LMARG have a focus on one regional priority area, for example, they might focus on transition from prison or out of home care and devote attention to that one priority in the quarterly meeting.

This is an alternative model, led by Aboriginal organisations to which the state agencies are invited to participate in targeted discussion and very much focused on developing solutions to problems in the region. A representative from the DHHS has stated that this has been a very successful model in the region and suggest that it be looked to as an example of what can be achieved through collaborative effort.

Recommendation 12 – RAJAC Chairs would benefit from sharing ideas about how to maintain the vibrancy and relevance of RAJAC Forums to all members. Some RAJACs struggle to attract new community members and others are challenged by inconsistent membership. In coming together (this could be at regular Koori Caucus meetings) there is an opportunity to share innovative ideas from which all RAJACs can benefit. The networking opportunity should include Chairs and Deputy Chairs of RAJACs and should be extended to Executive Officers, LAJAC Project Officers and where appropriate LAJAC chairs so that the capacity building is offered to all who are supporting the AJA in the regions.

6.4.1.3. Positive partner relationships have formed and are being maintained

One of the most reported achievements of the AJF is that it has facilitated and enabled the development of strong and durable relationships between agencies and with members of the Victorian Aboriginal community. Having such relationships in place means that forum members can contact each other outside of the official channel provided by the forums and committee meetings. The direct contact has resulted in many justice issues being clarified or resolved before they escalate.

It's been the signature piece for better engagement both at the local/regional level and state-wide level – showing commitment to 'we're in it together', being able to test our thinking in that environment, hearing the instant feedback, also demystifying some [justice] processes. (Departmental AJF member)

At a regional level there have developed strong and positive relationships between the RAJAC membership that allows for communication and problem solving through more informal means. In most regions it has become possible for the RAJAC Chair, for example, to assist members of their community who have encountered issues with government agencies including police, by directly advocating with the relevant authorities on the community member's behalf. There have been numerous instances where minor issues or miscommunications have been resolved before they become more damaging.

The ongoing meetings of community and government allow for these relationships to be strengthened and maintained. It is questionable whether they could be maintained without the formal structures that are in place particularly as agency representation shifts as staff move out of one region and into another.

6.4.1.4. Partnership effectiveness is reviewed, and practices adapted as required

We have previously discussed the changed environment in which the AJA is now operating. Many government agencies have more fully developed their own policy and strategy responses to addressing Aboriginal disadvantage. Added to that is the Victorian government support for the activation of self-determination and steps towards establishing a treaty with Aboriginal Victorians. In some respects, these recent events have overtaken AJF members. There is a sense that the structures supporting the AJA will need to adapt to the changed environment but, because there is currently a state of flux in the changes, it has been difficult to pin down how and what needs to adapt. The recommendations from this evaluation should assist in identifying where adaptations can be made to drive the changes needed to ensure the continued relevance of the AJF and RAJACs in guiding the Agreement into the next phase.

6.4.1.5. The partnership influences the organizational decisions of partners independent of the partnership

Two agencies in particular highlighted that the AJA partnership had influenced how they do business. These agencies have taken the view that “core business is Koori business”.

Corrections Victoria are a key partner agency to the Agreement. The agency has implemented a number of strategic decisions which offer a good insight into their commitment to the Agreement and its objectives. The Commissioner for Corrections, Jan Shuard, stated that decisions taken within the agency are “always looked at through the lens of investment in Aboriginal prisoners and offenders”. The agency does look to such investment as a proportionate response, that is, an investment ratio that considers the number of Aboriginal offenders as a proportion of non-Aboriginal offenders. The agency also attempts to avoid decisions that would require adaptation of mainstream services to suit the specificities of Aboriginal culture. As the Commissioner noted, “the AJA is embedded into our DNA” and placing Aboriginal culture and needs at the centre of decision making has become their ‘business as usual’ approach. An example of the impact that partnership with Aboriginal community members can have comes in the renaming of the Corrections Victoria Aboriginal Programs Unit to Naalamba Ganbu and Nerrlinggu Yilam. The Commissioner for Corrections sent out notification to all staff about the name change and encouraged the use of the Aboriginal language name. To assist the agency provided sound bites so that non-Aboriginal people could pronounce it correctly.

Now people walk around actually referring to the unit as Naalamba Ganbu and Nerrlinggu Yilam, they're not using English and we were very clear about saying not to use acronyms or putting English definition in brackets. We want to encourage people to use this language and we gave them the sound bite because everyone fears if they've said it wrong and they get embarrassed but we encouraged them to practice in their own time. One of the last presentations I went to the Minister for Corrections actually said Naalamba Ganbu and Nerrlinggu Yilam quite freely, quite easily. People didn't even stop to think. It just registered that the Minister had just used language in her speech. It's those critical things by simply understanding language and its place in our mainstream business we're maintaining aboriginal ancient language. It's those, little things that are having an impact but are quite simple to do.

Victoria Police was also highlighted as taking an organisation-wide approach;

There is an overwhelming desire to actually understand any opportunities for improvement and a desire to do better. It's quite unique to be able to walk into a big agency such as Victoria Police and from the chief down you've got an overwhelming sense of 'How do we do things better?' (Departmental AJF member)

The Priority Communities Division within Victoria Police is an example where organisational change has occurred. The Division is now centrally located and engages much more intensely with community enabling a more agile approach to dealing with on-the-ground issues. As the Chief Commissioner has noted;

That's a central piece for us and they are central to our involvement to the AJF. They guide and shepherd and coordinate it. They can get involved in all parts of the organisation so have a role in directing our policy

The Sheriff's Office reported similar changes:

[AJA] has enabled a great deal more understanding in our sheriff's offices about Koori issues more generally and we are becoming much more Koori aware.

6.4.1.6. Reviewing performance

There is room for a limited annual review of partnership performance so that practices can be adapted as required and steps taken to enhance the collaborative skills of the partners and the partnership. The review could be a simple survey of members of each of the major structures – AJF, RAJAC, LAJAC. If necessary the review may also include other structures such as the KRGs and potentially the Koori Caucus. If the Caucus is subject to review it should be conducted by an independent party endorsed by the Caucus. An assessment tool such as the ones referred to in Section 4 offer a useful base from which to build a review tool suitable for the AJA partnership¹⁵.

Recommendation 13 – A recommendation that the KJU design and implement an annual survey of AJA partners at the state, regional and local levels to gather their views on the performance (strengths and weaknesses) of the partnership. Survey responses should be anonymised and confidentiality of respondents assured. Results from the survey should be presented back to the relevant forum.

The above recommendation focuses on the performance of the partnership. The Evaluation Branch within the KJU do commission independent, and sometimes conduct internal evaluations of various aspects of the AJA. The outcomes of these evaluations are reported to the AJF. We consider it would be useful for a process of review of achievement of the goals identified in Regional Justice Action Plans be undertaken to gain greater insight into initiatives unique to each region. Information from such an assessment would help to inform the roll out (or not) of similar initiatives in other regions under the place-based model advocated within the AJA. This review would not be an evaluation, rather a simple assessment of progress in the regions towards addressing identified justice issues. This assessment would be in addition to the recommended evaluation discussed in Recommendation 2 (page 48).

Recommendation 14 – Regional Justice Action Plans should be assessed each year by the RAJAC to monitor the extent to which actions have been addressed and the contribution the actions have made to the objectives of the AJA in the region. The assessment should also identify any actions that remain outstanding and RAJACs should identify how they will be addressed in the coming Plan (if at all). This assessment report should be made publicly available through the KJU.

¹⁵ For example, see the Partnership Self-Assessment Tool from the Centre for the Advancement of Collaborative Strategies in Health at https://atrium.lib.uoguelph.ca/xmlui/bitstream/handle/10214/3129/Partnership_Self-Assessment_Tool-Questionnaire_complete.pdf?sequence=1&isAllowed=y

6.4.2. Partnership Outcomes

6.4.2.1. Agreed objectives are being met

The objectives of the AJA3 partnership model and its governance structures, in summary, are to: increase collaboration and accountability; enable Aboriginal self-determination; and thus contribute to better justice outcomes.

Collaboration and accountability

Several interviewees felt that the AJF was not making enough concrete progress toward its objective. It was recommended to us that each AJF focus on a few major priorities and develop actions required in the following six months to make progress against them. If this approach were adopted it would result in less time being spent on cycles of reporting and allow for a strategic agenda less distorted by the issue of the day.

We want actions and results but we can't get traction. It might be that we can form around a particular issue and a group of people from police and community can be formed to work on solving a particular problem and getting a quite tactical outcome. Then I come back to the AJF on progress and the result. Then we can say 'OK we've done this. Now what's next? Over a couple of years, we will have nailed a whole bunch of things (Government AJF member)

An example of a top priority was reducing the remand rates of young Aboriginal people. Collaborative work can explore community interventions and wrap-around support, and how to gain the young person's consent to participate. While this work is happening (e.g. through Aboriginal Case Management Review Meetings, for example), the AJF is focusing more on the recidivism data (another interviewee spoke of being 'swamped' with data) than on action.

One interviewee felt that too much time is spent in the AJF discussing the absence or perceived shortcomings of services. They argued it would be more effective to adopt and maintain a collaborative and solution-focussed approach. While this argument has merit, it fails to acknowledge that there are real absences and shortcomings in service delivery with much of that service delivery reliant upon government – as delivery agents or via funding of non-government sector service delivery organisations. Discussions at the AJF about the absence of services is part of the accountability function of the forum and cannot be dismissed.

Another government interviewee described the potential of the AJF to drive the requirement to work better together, and the unrealised need for genuine equality around the table. This constrains the AJF's ability to set strategic direction, in this view, because government commitments are not being made and followed through:

The departments are not making commitments there and then to community to actually work together to resolve a systemic issue or look at reform. What you are getting is a lot of departments ducking and weaving. Therein lies the issue and you can sense the frustration. They've got the resources, they hold the data, they provide the service system responses so they fund the local delivery model. They absolutely have got all the power (Aboriginal Government representative)

The community forum at the AJF meetings will often raise issues related to individual cases of grievance or ongoing concerns. Having the high-level government representatives in the circle allows for resolutions to be offered but it also provides an opportunity for government to see each individual

issue as part of a systemic problem and develop a whole-of-system response based on their data and their ability to fund the service system. This would extend accountability from the individual case to the system.

Self determination

There was a mix of opinions about progress towards self-determination. Several participants considered that the AJA was ready for a renewed momentum as a vehicle for change within the context of progress towards Aboriginal self-determination.

We are on the steering committee for AJA4 because self-determination is at the heart of it. We want to be there as advocates and set out more clearly how self-determination looks so that it's more enforceable. This is the lens through which change can happen - with that lens we can approach things differently and it will lead to better outcomes all round. Self determination was originally flagged as a right in the Victorian Human Rights Charter. But more work was needed then with the community, to really understand it. With AJA4 and the treaty discussions we can define the rights and the obligations attached to it. The Human Rights Charter is our mechanism for making things happen. If self determination is at the centre, legislative processes such as bail and parole will have to take into account the consequences of any changes, in terms of self determination. (Aboriginal Peak Body representative)

In some cases, we have heard that government partners are cautious about wielding their power and prefer to defer to community leadership:

The last thing we want to do is impose or seize control ...we want solutions to be community led with our support - not us placing solutions on community.' (Government AJF member)

We support this view but caution against an expectation that the community are solely responsible for devising solutions or setting a strategic agenda. The AJA is a partnership arrangement and there is a desire for it to be an equal partnership (but refer to Section 6.3 where we discuss the power imbalances that are present). Discussions and debate should not be thought of as one party imposing their ideas on the other, rather, the forums should be seen as a two-way dialogue that enables the joint development of solutions with input from all partners.

Meanwhile, others are of the view that power sharing cannot be a reality without radical structural change:

The AJA was a stepping stone but we've got to take the next step now. We needed to start somewhere but 17 years on, the AJA remains in my view a colonial document. White fellas have the money and black fellas have to ask for it. That sets up at least two sets of problems: we assuage our guilt by handing out money, the statutory responsibility and money sits over here and we hand it out to make ourselves feel better. As for the ACCOs, accountabilities are nothing like governments and the agencies rightly say the money alone isn't enough. (Government RAJAC member)

For self-determination to progress, government has to hear and respond to Aboriginal voices in the spirit of equal partnership:

Having the justice forum where you have that equal partnership at the table with community voices and senior level government representatives should facilitate a greater understanding of the issue and an opportunity for the partnership approach to propose

solutions. For me as an Aboriginal person from Victoria, the frustrating bit is that it appears that the Aboriginal voice has less ability to require government departments to effectively respond. In Aboriginal community there is what is called "deep listening" and there's some government departments that are not listening. They hear the frustration but they don't understand that it's driven by not being heard. (Government AJF member)

So, while the structures and processes of the AJA build in a voice for all actors, the power of those voices remains unequal.

Improved justice outcomes

The KJU tracks the key achievements of the initiatives of the AJA and reports these on an annual basis. The last document of achievements reviewed for this evaluation were those reported for the 2015/16 period. This document extends over 48 pages and 111 achievements including:

- Establishment of the new Local Justice Worker Program assisting offenders to complete community corrections orders and successfully resolving outstanding fines and warrants.
- Implementation of the Koori Women's Diversion Program in Mildura involving intensive case-management to address many of the complex drivers of offending behaviour among Koori women and resulted in reduced offending and increased diversion from prison.
- Amendments to the Bail Amendments Act whereby children are no longer charged with the offence of breaching bail conditions.
- Aboriginal Community Fines Initiative provides Aboriginal community with information on the Infringements process and tools to action their infringements, including access to an Infringements Court Registrar and legal assistance.
- Aboriginal Prisoners Transition Housing Project whereby two facilities, one for males and one for females were built as a short term transitional option for people leaving prison.

These achievements are significant in themselves and the actions that led to them have been informed by the discussions that have occurred at the regional and state level forums. To date the over-representation of Aboriginal people in the criminal justice system remains high but without the AJA initiatives it would likely be much higher.

6.4.2.2. The partnership is perceived as being successful

... the fundamental threshold to determine whether something is worthwhile. Without this could you achieve what you can with it. I think the answer is a resounding no. Even if you did achieve things you definitely couldn't have achieved as much as you have with it in place. Is there more you want to achieve? Of course, there is. Is there disadvantage we need to eliminate? Of course, there is but would removing a forum like this make that harder. Absolutely (Government AJF member).

One of the most reported achievements of the AJF is that 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 come a long way since it first formed in 2001. At that time there was understandable distrust and scepticism by Aboriginal community members towards government. 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. Some of the comments we heard during interviews reflect the outcome of the AJA journey thus far:

We have had a really positive experience with the AJA. We remember how far we've come.... especially compared with other jurisdictions (Aboriginal Peak body representative)

It's been the signature piece for better engagement both at the local/regional level and state-wide level – showing commitment to 'we're in it together', being able to test our thinking in that environment, hearing the instant feedback, also demystifying some [justice] processes. (Government AJF member)

The partnership is perceived as being successful in creating and enabling programs, such as women's diversion, where the current AJA has a specific focus area. There is both a groundswell of community support and the responsible government agency recognises and embraces AJA principles:

Diversion of women from prison was highlighted as a joint priority of government and community making it easier to work in partnership. The pilot program benefited from being a key focus area of AJA3. In my current position, without the AJA framing how I do my job, I always have had to argue the case for working in partnership and for recognising Aboriginal people's aspiration for self-determination. It's just that this workplace isn't used to doing business that way ... I still hold to the guiding principles of the AJA (Government AJF member)

It is not only the high-profile initiatives that provide an indicator of success but local programs with seemingly small results can effect much wider change:

I can't talk for others but I think some of the projects have been change-makers in our region. We're a very small region but when you look at the statistics...if we can stop one or two Koori kids from going into the system then we might deem that to be a success. Certainly, if you look at how much it costs to keep one person in prison. There is respect for the RAJAC. Community are looking on and saying "what are you doing?" and we can say, well we brought in these things and they've made a difference (RAJAC Chair).

6.4.2.3. The partnership provides for all relevant actors to have a voice

The structures that have been established under the AJA provide an opportunity for the community voice to be heard at the local level (in some regions), regionally and at the state level. Incorporation of community forums at the AJF and in some RAJACs allows for any interested community member to confront the AJA partners - ask questions, demand answers. This opportunity has been welcomed by those who have participated.

The justice forum brings together not only the members all around the state but the open community forum. It's an opportunity for real grassroots community members to come out and its emotive, it's raw. Some of the feedback is targeted to all government agencies but predominantly the police interactions are quite confrontational. Victoria Police have never shirked their responsibility and not only do they take ownership of it to the person at the time very publicly but also are very quick to follow it and make sure it is resolved down the track to the satisfaction of the individual (Government AJF member).

The AJF is attended by senior government leaders from agencies with responsibility for improving justice outcomes and Aboriginal leaders from across the state. The Forum attracts in excess of 50 individuals depending upon the agenda and the location for the forum. Other attendees may be invited, as needed. Currently, the AJF includes representation from DJR, Victoria Police, all court jurisdictions, Corrections Victoria, Youth Justice, Health and Human Services, Education and Training, Commonwealth Department of the Prime Minister and Cabinet (Indigenous Affairs Network), Victorian

Department of the Premier and Cabinet (Aboriginal Affairs), and Victims Support. Other quasi-government groups and peak bodies represented are Victorian Equal Opportunity and Human Rights Commission, Koori Youth Council, Commissioner for Aboriginal Children and Young People, Victorian Aboriginal Legal Service, Victorian Aboriginal Education Association, Victorian Aboriginal Childcare Agency, Aboriginal Family Violence Prevention and Legal Service, Victorian Aboriginal Community Controlled Health Organisations, Koori Independent Prison Visitor Program, and Aboriginal Housing Victoria. RAJAC Chairs from the nine justice regions represent regional communities.

The forums at all levels are open to all-comers to observe and, thus, have high levels of transparency. It is therefore incumbent on all participants that the commitments they make are followed up and reported on. We have heard some frustration that some matters have not been resolved after being on the agenda for over three years. Those items have remained in the agenda which enables members to constantly raise them until they are resolved which demonstrates the levels of accountability that are built into the processes.

The AJF membership covers a broad spectrum of interests. Some consider the spectrum to be too broad and have advocated for a reduction in the size of the AJF membership and for it to narrow its focus on justice issues specifically. This is discussed further in Section 6.4.2.7 below.

6.4.2.4. The Aboriginal Justice Agreement is 'known' and respected as a vehicle for change

Amongst the partners and partner organisations the Aboriginal Justice Agreement is known and is respected as a vehicle for change. Although we have not specifically interviewed people not directly associated with it, partners have suggested that it is not well-known in the community. This, in itself, is not a negative because people in the community know about, have used, or come into contact with many of the initiatives that have developed as result of the AJA. That is more important than knowing about the AJA because they are the initiatives that make a difference in people's lives.

Across government the AJA has been a guiding document and has formed the basis for many recent and new strategies developed by other government agencies. It could be argued that the AJA created the momentum for the current discussions around self-determination and treaty. To maintain that momentum partners to the AJA will need to take account of the more crowded landscape (see Section 6.1) and how they will connect and interact with the new partnerships that are coming together around education, health, policing, human services, etc.

6.4.2.5. Are achievements of the partnership disseminated publicly

The achievements of the AJA partnership are not disseminated publicly but there would be great benefit if they were. We have encountered interviewees who question what has been achieved because they see that there has been little change in some of the indicators, in particular, the over-arching indicator of over-representation. If people who are closely involved in the AJA have this view then it is highly likely that a similar view is held across the community. It is true that this indicator has not shifted but that does not mean that the AJA partnership has not recorded significant achievements over its course as was discussed above. There is also an acknowledgment that had the AJA not been in place the indicators may have been far worse as this one interviewee notes:

Communication is critical. Knowledge is a powerful tool and the effort to that is important because I mentioned earlier the rate is increasing in terms of Aboriginal over-representation but the justice forum and the agreement slows that down and that's the narrative that people need to know as opposed to this thing is not going to be the be-all and end-all but it does hold a system accountable and that's what we need to continually tell the communities. That's what we need to tell those people who are hard to reach, that this is

the situation. Even those who are in the know as well because that narrative comes back that we have this justice agreement and it's not doing nothing. It's important for people to know the narrative and the outcomes of the forums. The forum and the system have to get better at doing that, hands down and better at acknowledging that there are other voices and other people with expertise and knowledge and understanding to assist. (Government AJF member)

This is a passionate plea for better, wider communication. There are many success stories that have come out of the AJA and these need to be shared.

Recommendation 15 – We understand the KJU is in the process of developing a stronger web presence. That presence needs to tell these stories where change has been effected and it also needs to tell the stories of how the AJA partnership is working towards addressing other factors contributing to over-representation. As one interviewee made clear “knowledge is a powerful tool” and placing that knowledge where it can have the most influence is the first step. We also recommend that the KJU considers building in the facility for people to raise their own issues and concerns through a moderated section of the website. This could help to attract the youth voice and bring greater diversity to the discussions.

6.4.2.6. The partnership adds value

As we have highlighted previously, the AJA partnership structures are viewed as successful and interviewees want to see them be continued but with some modifications. Here we bring together the criticisms of the current structures and offer suggestions for improvements.

1. The impact of other forums

There are a growing number of forums and mechanisms for Aboriginal involvement in the strategies and decision making of government departments. Given many of the determinants for criminal offending behaviour lie outside of the ‘justice system’ it is likely that the discussions at these other forums and the actions that arise from them will contribute to justice outcomes – positive or negative. The question for the current partners of the AJA is how to interact with these other forums to minimise the potential for duplication of effort and maximise the benefits.

One of the major consequences of the emergence of these new forums is the demand it places on Aboriginal community representatives. They are invited to participate in many forums and they are already spread very thin and many are close to burn-out. We expect that many Aboriginal representatives will prioritise their involvement in the forums of most interest and the ones where they expect to achieve real results. For some, the AJF may not be the forum of choice.

We see two main opportunities available to the AJF partners to lessen the demand on Aboriginal representatives at the Forum. If the focus for the agenda was directed towards criminal justice matters and strong links to other forums (which could be through the Secretaries Leadership Group for Aboriginal Affairs and a similarly convened group of Aboriginal representatives) were this might allow for members to attend the one forum of most interest to them and be confident that they will continue to be informed of discussions happening at other forums. This change will only be successful if the links and communication flow between forums are strong. A second option (and these should not be considered and either / or approach), is to develop programs that strengthen the capacity and capability of Aboriginal community members not already engaged with the AJA or AJF to encourage

more to participate in the partnership. This option is for 'sharing the load', so that the already engaged members have broader support from the community. This capacity strengthening task is a whole-of-government responsibility, not only for the AJA, but for all other forums including those established for self-determination and treaty.

... we had a community leadership program here run by one of the universities was very successful it could be something that to start people thinking about if they want to pursue a more intense leadership role, but some of the basics there needs to be a starting point (RAJAC Chair)

One interviewee's perception was that partnership forums were brought together satisfactorily –the government has a common framework and, at the community level, consistency comes from community leaders having a lived, whole-of-community perspective:

Between the Family Violence Partnership forums and the AJA3 there's a clear delineation when you get to the AJF they won't cross-over into FV they know it's the remit of the FV partnership forum and vice versa. There's cross representation on the forums so there's consistency and that sharing of information. The Victoria Aboriginal Affairs Framework brings together all that annual reporting anyway so it's almost the overarching framework to drive all activity to close the gap on all the domains. While there is cross-over, the membership is consistent across both forums and it's really the leadership in the community that are driving the raising of issues and the systemic reform required to address the issues. It is consistent but when you've got a small community that is interconnected anyway it's easier to understand that the themes are consistent if they're raised at the FV forum or the AJF because it's the same voices, the same people representing the issues because we all live and breathe in the community. (Regional Government Representative)

This works in the case of these two forums, both very much focused on justice matters, but with other forums in education or health, where the justice link is not so obvious, there is a risk that duplication can occur or, worse that gaps might emerge because neither forum is focused on a particular issue.

For the AJA partnership to continue to add value there will need to be some way to connect all of the players across all of the forums.

2. Are all of voices heard?

The voice largely missing from the AJA partnership is that of youth (up to 18 years) and young people (18 to 24 years). The youth and young people's voices are represented at the AJF with the inclusion of the Commissioner for Aboriginal Children and Youth and the Manager of the Koori Youth Council. At most RAJACs they are absent. This is not to say that the AJF or the RAJACs do not have a focus on the issues affecting youth and young people as they clearly do. In some cases, the focus on youth is at the expense of other age cohorts. Several times we heard comments such as "we have to focus on the kids to stop them getting caught up in the justice system; its too late for the adults". This focus may be strengthened because the youth voices are not being directly and consistently canvassed at the regional and state forums. Certainly, some of the young people we spoke with did not share the same pessimism about rehabilitation of older age groups.

The absence of a direct youth voice is a detriment to the value of the partnership. Given the young population profile of Aboriginal people in Victoria and the risk of increasing numbers of youth entering the criminal justice system it is essential for the partnership to maintain a focus on programs and initiatives that help to divert young people from the system and to prevent their entry into the system

in the first place. The best programs will be those that take account of what young people want. Encouraging more involvement by young people in the partnership, particularly at the regional and local levels, should be a focus and efforts to do so increased.

3. Succession planning

The capacity strengthening advocated above leads into enabling succession planning, particularly for RAJAC Chairs and Deputy Chairs and also for RAJAC Executive Officers.

At present, RAJAC Deputy Chairs are not being fully utilised or engaged. They tend to be used largely as a proxy for when the Chair is not available. Given the time constraints on most Chairs we suggest that the role of the Deputy Chair be boosted. In one region the RAJAC has implemented a portfolio approach similar to that of the KRG. RAJAC members, including the Deputy Chair, are assigned portfolio areas and attend the KRG in that capacity. Having this greater role in the KRG has brought a number of benefits including easing the load on the Chair, allowing other RAJAC members to become more fully engaged and building their knowledge of how decisions are made and progressed through government. It would be hoped that this would also help with the retention of community members in the RAJAC (**See Recommendation 5 on Page 57**).

We've got people in the region who work in FV who could go to the FV KRG or people working with police can go police KRG and coordinate the region's response and bring information back (Former RAJAC EO).

As noted previously, the role of the EO is crucial to the effective functioning of the RAJACs. The DJR is increasingly challenged in recruiting quality staff into these roles as the level of interest appears to have waned over recent years. The value added by EOs is well-accepted and when they leave these roles there is a significant impact on the RAJAC, particularly if the position remains unfilled for any period of time.

We have discussed previously the challenges faced by RAJAC EOs and offer a number of suggestions for addressing, or minimising the impacts of, the challenges they face. Many EOs struggle to cover their whole region and to support both RAJAC and LAJACs.

To address the challenges faced by RAJAC EOs we make the following recommendation.

Recommendation 16 – We recommend that:

- each LAJAC have a dedicated Project Officer supporting it
- non-metropolitan based RAJAC EOs have permanent access to a vehicle to enable them to easily travel around the region
- trainee positions similar to those within the Sheriff's Office be introduced to assist with succession planning. A trainee would have networks to the community and have developed the skills necessary to engage with community and government to be able to step into the role should a vacancy arise.

4. Are all of the structures adding value?

The one partnership structure that attracted the most criticism is the Koori Reference Group. They have variously been described by critics as “cumbersome”, “bureaucratic”, “time consuming” and a “talk-fest”. Such criticism and that described in Section 6.2.1.3 appears to us as valid. The KRGs add

one further layer to an already multi-layered partnership and the role that the KRGs play may be able to be achieved through other means. In Section 6.2.1.3 we have made a recommendation that the KRGs continue to operate as they are in the short-term and in the absence of any other mechanism to assign responsibility for addressing actions raised at the AJF and to monitor progress against those actions.

5. Would devolution improve effectiveness and sustainability?

One of the strengths of the AJA partnership is the ability to gather and share information at a local level. The relationships that have formed at the regional and town-based level have led to greater understanding of the issues that Aboriginal people are confronted with and, in turn, has built greater cultural awareness in government service providers. From this improved understanding government agencies have been introducing more and more Aboriginal liaison roles as well as increasing their Aboriginal workforce. The Sheriff's office is one business unit that has benefited from the insights they have gained:

The SALOs enable us to have far more understanding of Koori issues and the cultural significance by the officers but also a lot of Koori communities who we have been able to work with are far less intimidated by the things that we do and the fact of our existence so we've been able to engage with individuals as a result which has been a really significant positive. People are better able to meet with community and community are better able to deal with us much more directly. (Sheriff's representative)

Agencies have some limited discretion at the regional level which has enabled local initiatives to proceed. These have brought positive results on a small-scale. It may time to consider further devolution of decision making away from the centre and towards the regions.

6.4.2.7. The partnership is sustainable

We consider the AJA partnership a sustainable model. It has endured for 17 years and over that time has been the catalyst for significant change in the justice sector. We have not encountered, in over 80 interviews, any individual or organisation that thought the partnership had not been worthwhile. Nor did we hear from anyone who thought it should not continue. What we did hear is that the partnership needs to be revitalised, refocused and redirected.

The AJA model is fantastic - there's respect, openness, true engagement and genuine listening. But in the AJF, there's a sense of the same old thing - cycles of talking and a lot of good thinking. But where's the strategy? We could improve accountability by focusing on five or six big initiatives and track actual progress, based on a theory of change. There is a lot of reporting back but I sometimes wish it was a bit more rigorous. We could start the meeting by reviewing actions against goals. To ensure traction and reflect on impact (Aboriginal Peak Body organisation)

The AJA was a stepping stone but we've got to take the next step now. In its current form it has exhausted itself (Government AJF member)

I think the AJA does do good work and I think it's needed but it is definitely time for change and to be really focused on what the purpose is. Because it is really big and I think some of the focus gets lost and I think many people sitting around the table are feeling that (RAJAC Chair)

I remember one comment from a very senior person who said this forum should just be called the Aboriginal Forum because we don't focus on anything justice we focus on anything Aboriginal (Government AJF member).

What has emerged often during interviews is a desire to see the AJF narrow its focus to justice-specific issues, that is, issues pertaining to police, courts and corrections in both the youth and adult spaces. This view doesn't discount the determinants of criminal offending behaviour in areas such as health, housing, employment, drug and alcohol use, or child protection. It argues that responsibility for those areas are best left to the specialists in the specific agencies and organisations with responsibilities for addressing them. There is also a view that these other agencies are now much more advanced in their own engagement mechanisms allowing for the Aboriginal voice to be heard.

This is a view that is shared by the evaluators. There is a real opportunity to push reset on the AJF so that it can make criminal justice matters the centre of attention. If this were the case, there might then be an opportunity for the partnership to have an impact on justice policy decisions and legislative change that continues to disproportionately and adversely affect Aboriginal Victorians.

Recommendation 17 – That the AJF take the opportunity to refocus its agenda on criminal justice matters, provided that strong links are established between the AJF and other Aboriginal-focussed forums established by other Government agencies. While the AJF agenda could focus on criminal justice matters there is a continuing need for a holistic approach and the Forum will still need to draw on knowledge and ideas from a range of experts across different sectors. Representation from a similarly wide range of stakeholder groups as currently engaged should continue. Where links are established with other forums they will need to allow for an open flow of information and for issues that might be raised in one forum to be referred to, and acted upon, by a more relevant forum. It is crucial that accountability for addressing actions is maintained and communicated. If the links between forums cannot be established the AJF should continue to maintain the broad focus it currently has, understanding that duplication of effort will occur.

7. Recommendations

Throughout this report we have made 17 key recommendations as well as some other suggestions for improvement. The recommendations are listed below and organised by theme.

Building the strength of RAJAC/LAJACs

Recommendation 1: Regional Justice Action Plans need to be responsive to the dynamic change that occurs in society and that generate new issues of concern to the RAJAC and its members. We recommend the introduction of annual Regional Justice Action Plans which focus on two to three priority issues. It would be the role of the RAJAC to determine annual priorities but their determinations could be informed through allowing for community input via online means (if not directly via attendance at the RAJAC meetings). We understand the KJU is considering expanding its online presence. This is ideal time to also consider how that presence can incorporate the ability for community input. (p. 47)

Recommendation 5 - Attracting greater participation in regional (and local) forums by Aboriginal community members, particularly those representing specific interests (e.g. youth, education, housing, etc) is crucial for the ongoing relevance and effectiveness of RAJACS and LAJACs. Some efforts should be directed towards investigating the barriers that keep people away and addressing these so that participation is encouraged and new people are welcomed into the forum. To ensure diversity of views it would be beneficial to attract participation from community members who are not necessarily aligned with government or community organisations (p. 55).

Recommendation 6: KJU investigate options to assist RAJACs in recruiting new community members to the RAJAC and developing the leadership capacity of new members that they might take on a leadership role in the RAJAC. This capacity building opportunity should also be made available to existing Chairs and Deputy Chairs. An amendment to the RAJAC Framework of Operations will be required to expand eligibility to community members not affiliated with an ACCO. (p. 57).

Recommendation 7: As a first step we recommend that KJU independently evaluate the position description for EOs against the tasks actually undertaken and the responsibilities of the role. There is an opportunity to expand the role in the regions so that it becomes the key coordination position for Aboriginal justice matters. We would expect that any evaluation of the role would closely consider the resourcing sufficient to perform the tasks delivered by the EO and the professional development needs of the EOs to contribute as leaders in their communities. (p. 59).

Recommendation 10: That LAJAC and RAJAC Chairs and Deputy Chairs are surveyed to gain an understanding of their need and desire for skills and capacity development to assist them in their roles. Once the needs assessment has been completed the KJU should facilitate the necessary training for those interested. (p. 70).

Recommendation 12 – RAJAC Chairs would benefit from sharing ideas about how to maintain the vibrancy and relevance of RAJAC Forums to all members. Some RAJACs struggle to attract new community members and others are challenged by inconsistent membership. In coming together (this could be at regular Koori Caucus meetings) there is an opportunity to share innovative ideas from which all RAJACs can benefit. The networking opportunity should include Chairs and Deputy Chairs of RAJACs and should be extended to Executive Officers, LAJAC Project Officers and where appropriate LAJAC

chairs so that the capacity building is offered to all who are supporting the AJA in the regions. (p. 75).

Recommendation 16 – We recommend that:

- each LAJAC have a dedicated Project Officer supporting it
- non-metropolitan based RAJAC EOs have permanent access to a vehicle to enable them to easily travel around the region
- trainee positions similar to those within the Sheriff's Office be introduced to assist with succession planning. A trainee would have networks to the community and have developed the skills necessary to engage with community and government to be able to step into the role should a vacancy arise (p. 86).

Managing the demands on community

Recommendation 4: Given the number of forums, meeting, workshops and the range of consultations taking place it would be useful if government agencies holding these forums could better coordinate and communicate activity. Government cannot expect Aboriginal community members will be available for all forums but their ability to do so will be enhanced if they are able to see a schedule of all of the forums being planned for the next six months. A whole-of-government calendar of events could be developed and made publicly available to enable forward planning. (p. 48).

Innovative use of technology and online platforms

Recommendation 9 – Online platforms enable real-time and ongoing communications to occur and provide a useful mechanism to share and disseminate information, either to selected members of a portal or publicly. The KJU should investigate how to expand their online presence so that information can be shared outside of the formal face-to-face forums. (p. 64).

Recommendation 15 – We understand the KJU is in the process of developing a stronger web presence. That presence needs to tell these stories where change has been effected and it also needs to tell the stories of how the AJA partnership is working towards addressing other factors contributing to over-representation. As one interviewee made clear “knowledge is a powerful tool” and placing that knowledge where it can have the most influence is the first step. We also recommend that the KJU considers building in the facility for people to raise their own issues and concerns through a moderated section of the website. This could help to attract the youth voice and bring greater diversity to the discussions. (p. 80).

Monitoring the implementation of the agreement

Recommendation 2 - In developing their Regional Justice Action Plans the RAJAC should identify one action or initiative that is expected to have a significant impact and provide the details of the action, including lead agency/organisation to the KJU Evaluation Team to enable them to develop a methodology for a review. The purpose of the review is to determine the impact of the action against the objectives of the AJA. As it is possible that up to nine reviews will be required annually, it is likely that additional resources will need to be made available to the Evaluation Team to design and implement the studies. (p. 48)

Recommendation 13 – A recommendation that the KJU design and implement an annual survey of AJA partners at the state, regional and local levels to gather their views on the performance (strengths and weaknesses) of the partnership. Survey responses should be anonymised and confidentiality of respondents assured. Results from the survey should be presented back to the relevant forum. (p. 77).

Recommendation 14 - Regional Justice Action Plans should be assessed each year by the RAJAC to monitor the extent to which actions have been addressed and the contribution the actions have made to the objectives of the AJA in the region. The assessment should also identify any actions that remain outstanding and RAJACs should identify how they will be addressed in the coming Plan (if at all). This assessment report should be made publicly available through the KJU. (p. 80).

Also;

Recommendation 7 -. As a first step we recommend that KJU independently evaluate the position description for EOs against the tasks actually undertaken and the responsibilities of the role. There is an opportunity to expand the role in the regions so that it becomes the key coordination position for Aboriginal justice matters. We would expect that any evaluation of the role would closely consider the resourcing sufficient to perform the tasks delivered by the EO and the professional development needs of the EOs to contribute as leaders in their communities. (p. 59).

Nurturing and strengthening the partnership

Recommendation 13 – A recommendation that the KJU design and implement an annual survey of AJA partners at the state, regional and local levels to gather their views on the performance (strengths and weaknesses) of the partnership. Survey responses should be anonymised and confidentiality of respondents assured. Results from the survey should be presented back to the relevant forum. (p. 77).

Also,

Recommendation 6 - KJU investigate options to assist RAJACs in recruiting new community members to the RAJAC and developing the leadership capacity of new members that they might take on a leadership role in the RAJAC. This capacity building opportunity should also be made available to existing Chairs and Deputy Chairs. An amendment to the RAJAC Framework of Operations will be required to expand eligibility to community members not affiliated with an ACCO. (p. 57).

Recommendation 10 - That LAJAC and RAJAC Chairs and Deputy Chairs are surveyed to gain an understanding of their need and desire for skills and capacity development to assist them in their roles. Once the needs assessment has been completed the KJU should facilitate the necessary training for those interested. (p. 70).

Reducing the over-burden

Recommendation 3 - The Koori Action Plans are not providing any benefit to the AJA that is not already provided through other mechanisms. We recommend that they be reconsidered. There is potential for the KRG Terms of Reference to be expanded to include any matters previously included in the Koori Action Plan that are not addressed either in the AJA, Regional Justice Action Plans or other procedural documentation. (p. 48).

Also,

Recommendation 8 – The KRGs are currently not functioning effectively, largely due to resourcing and scheduling issues but also because a lack of role clarity. We recommend the KRGs remain in place at least in the short-term. To assist in improving their functionality, we recommend that the KJU investigate the benefits of using web-based platforms to allow more frequent communication between KRG members. This evaluation has only skimmed the surface of what the underlying issues are with the KRGs. As such, we recommend a more in-depth analysis of the diversity of opinions about the KRGs and to better understand all of these positions. With this understanding in place the KJU should work with Koori Caucus to determine whether, and in what form, the Koori Reference Groups might continue, if at all. (p. 62).

Strategically focussing on justice

Recommendation 8 – The KRGs are currently not functioning effectively, largely due to resourcing and scheduling issues but also because a lack of role clarity. We recommend the KRGs remain in place at least in the short-term. To assist in improving their functionality, we recommend that the KJU investigate the benefits of using web-based platforms to allow more frequent communication between KRG members. This evaluation has only skimmed the surface of what the underlying issues are with the KRGs. As such, we recommend a more in-depth analysis of the diversity of opinions about the KRGs and to better understand all of these positions. With this understanding in place the KJU should work with Koori Caucus to determine whether, and in what form, the Koori Reference Groups might continue, if at all. (p. 62).

Recommendation 11 – One AJF each year should be dedicated to identifying three key themes for the subsequent Forums. Identification of the themes should be based upon issues that have emerged over the previous 12 months that have been highlighted by RAJACs, Koori Caucus, KRGs and government business units or that have emerged from an analysis of criminal justice data. The KJU may offer suggestions for themes for consideration by the AJF if this assists in expediting the process. Themes should be aligned to the priorities for the AJA. Once determined it will be the responsibility of the KJU, in collaboration/discussion with the AJF members (out of session) to create an agenda aligned to the theme. Creation of the agenda will include identification of speakers/presenters particularly those who might offer a view not typically encountered at an AJF. (p. 72).

Recommendation 17 – That the AJF take the opportunity to refocus its agenda on criminal justice matters, provided that strong links are established between the AJF and other Aboriginal-focussed forums established by other Government agencies. While the AJF agenda could focus on criminal justice matters there is a continuing need for a holistic approach and the Forum will still need to draw on knowledge and ideas from a range of experts across different sectors. Representation from a similarly wide range of stakeholder groups as currently engaged should continue. Where links are established with other forums they will need to allow for an open flow of information and for issues that might be raised in one forum to be referred to, and acted upon, by a more relevant forum. It is crucial that accountability for addressing actions is maintained and communicated. If the links between forums cannot be established the AJF should continue to maintain the broad focus it currently has, understanding that duplication of effort will occur. (p. 90).

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Appendix A Key Evaluation Questions and sub-Questions

KEQ 1	What are the intended purpose and principles of the Aboriginal Justice Forum, Koori Caucus, RAJAC and LAJAC; and Koori Reference Group structures? Are these being met/upheld?	
No.	Evaluation sub-questions	Methods/ Sources
1.1	What is the purpose and guiding principles of the functional components of the AJA?	<ul style="list-style-type: none"> Review of program documentation including the AJF, RAJAC Plans, terms of reference
1.2	Is the AJA, at all levels and across all partnership groups, operating according to its intended purpose and principles?	<ul style="list-style-type: none"> Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established
KEQ 2	To what extent do the partnership model and governance structures improve accountability and community participation in justice and other relevant policies and initiatives?	
No.	Evaluation sub-questions	Methods/ Sources
2.1	What makes for successful partnership and governance?	<ul style="list-style-type: none"> Literature scan of publicly available sources
2.2	For what and to whom are AJA partners accountable?	<ul style="list-style-type: none"> Review of program documentation including the AJF, RAJAC Plans, terms of reference, etc Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established Responses to Discussion Paper
2.3	What evidence is there of a commitment to accountability at all levels of AJA functioning? Systems in place?	<ul style="list-style-type: none"> Review of program documentation including the AJF, RAJAC Plans, terms of reference
2.4	What opportunities exist for community to provide input to AJA decision-making?	<ul style="list-style-type: none"> Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established
	What opportunity is there for the AJA to interact with government decision-makers?	<ul style="list-style-type: none"> Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established
KEQ 3	To what extent do the RAJAC and LAJAC structures influence inclusion, engagement and decision-making at local and regional levels?	
No.	Evaluation sub-questions	Methods/ Sources
3.1	What mechanisms are in place at the local and regional level to allow for input to the functioning and decision-making of the LAJA/RAJAC?	<ul style="list-style-type: none"> Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established
3.2	How do LAJAC/RAJAC obtain intelligence from local and regional communities?	<ul style="list-style-type: none"> Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established
3.3	How successfully is local/regional information integrated into decision-making processes at LAJAC/RAJAC?	<ul style="list-style-type: none"> Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established Responses to Discussion Paper

KEQ 4	To what extent do Koori Reference Groups drive action and the progression of justice and other relevant policies and initiatives?	
No.	Evaluation sub-questions	Methods/ Sources
4.1	What is the role and membership of the Koori Reference Group?	<ul style="list-style-type: none"> • Interviews Koori Reference Group members • KRG Terms of Reference
4.2	What are the communication processes of the Koori Reference Group that enable policies and initiatives to be influenced/influential?	<ul style="list-style-type: none"> • Interviews Koori Reference Group members • KRG Terms of Reference
4.3	What level of influence has the Koori Reference Group in the justice sector?	<ul style="list-style-type: none"> • Interviews Koori Reference Group members • Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established KRG Terms of Reference • Responses to Discussion Paper
KEQ 5	How efficient and how effective are the governance structures of AJA? What are their key strengths and weaknesses? Do they facilitate a 'joined up' government approach?	
No.	Evaluation sub-questions	Methods/ Sources
5.1	How do AJA partners view the functioning of the governance structures?	<ul style="list-style-type: none"> • Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established • Responses to Discussion Paper
5.2	What is the extent to which partners perceive and/or measure organisational benefits attributable to the AJA governance structures?	<ul style="list-style-type: none"> • Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established KRG Terms of Reference • Responses to Discussion Paper
5.3	What is working well with the governance structures that are in place?	<ul style="list-style-type: none"> • Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established KRG Terms of Reference • Responses to Discussion Paper • Summit Workshop outcomes
5.4	Are there opportunities for improvement to the governance structures?	<ul style="list-style-type: none"> • Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established KRG Terms of Reference • Responses to Discussion Paper • Summit Workshop outcomes

KEQ 6	How do stakeholders define 'success' or 'health' of the partnership model and governance structures, and in light of that - how 'healthy' is the Koori community-government partnership?	
No.	Evaluation sub-questions	Methods/ Sources
6.1	What is working well with the governance structures that are in place? [refer 5.1 & 5.3]	<ul style="list-style-type: none"> • Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established KRG Terms of Reference • Responses to Discussion Paper • Summit Workshop outcomes • Literature and document review
6.2	What makes for successful partnership and governance? [refer 2.1]	<ul style="list-style-type: none"> • Literature scan of publicly available sources
6.3	How successfully is local/regional information integrated into decision-making processes at LAJAC/RAJAC? [refer 3.3]	<ul style="list-style-type: none"> •
6.4		<ul style="list-style-type: none"> •
KEQ 7	What improvements could be made to the AJA governance structures based on evidence of effective practice, current requirements, and alignment with other governance mechanisms?	
No.	Evaluation sub-questions	Methods/ Sources
7.1	What makes for a successful partnership and governance? [refer 2.1]	<ul style="list-style-type: none"> • Literature scan of publicly available sources
	Are there opportunities for improvement to the governance structures? [refer 5.4]	<ul style="list-style-type: none"> • Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established • Responses to Discussion Paper • Summit Workshop outcomes
KEQ 8	Is it possible to assess the costs and benefits of the Aboriginal Justice Forum?	
No.	Evaluation sub-questions	Methods/ Sources
8.1	What are the costs of convening and supporting the Aboriginal Justice Forum?	<ul style="list-style-type: none"> • Financial records obtained from KJU
8.2	What benefits have been delivered as a result of the AJF	<ul style="list-style-type: none"> • Interviews with representative members of the AJF, RAJACs, Koori Caucus, reference groups established • Responses to Discussion Paper • Summit Workshop outcomes

Appendix B Stakeholders consulted

First name	Surname	Position/Title	Organisation
Larry	Kanoa	Aboriginal Affairs Victoria, Ballarat	Aboriginal Affairs Victoria
Karen	Heats	Ballarat Aboriginal Co-op,	Aboriginal Community Controlled Organisation
Rod	Jackson	CEO Wathaurang Co-op, Geelong	Aboriginal Community Controlled Organisation
Jason	Kanoa	Gunditjimara	Aboriginal Community Controlled Organisation
Jon	Kanoa	Ballarat Aboriginal Co-op	Aboriginal Community Controlled Organisation
Rebecca	Westphal	Local Justice Worker Bendigo and District Aboriginal Corporation (BADAC)	Aboriginal Community Controlled Organisation
Antoinette	Braybrook	CEO	Aboriginal Family Violence Prevention and Legal Service
Darren	Smith	CEO, Aboriginal Housing Victoria	Aboriginal Housing Victoria
Esme	Bamblett		Aborigines Advancement League
Andrew	Jackomos	Commissioner for Aboriginal Children and Young People	Commission for Aboriginal Children and Young People
Wayne	Harper	General Manager, Margoneet	Corrections Victoria
Jan	Shuard	Commissioner	Corrections Victoria
Annette	Stephens	Acting regional Manager, Hume	Corrections Victoria
Angela	Singh	Executive Director, Koori Outcomes Division, Early Childhood and School Education Group	Department of Education
Nicky	Foy	Dept of Education and Training, Ballarat and Geelong	Department of Education and Training
Ross	Broad	Assistant Director, Drug Policy and Reform	Department of Health and Human Services
Anne	Congleton	DHHS AJF Member	Department of Health and Human Services
Nicola	Jeffers	DHHS, Central Highlands region	Department of Health and Human Services
Taryn	Lee	Acting Director, Aboriginal Health and Wellbeing Branch	Department of Health and Human Services
Phillip	Perry	Grampians Regional Director, DHHS	Department of Health and Human Services
Leanne	Barnes	Executive Director, West Area and Barwon South West Region	Department of Justice and Regulation
Bill	Bethune	Regional Director, Department of Justice and Regulation, member BSW RAJAC	Department of Justice and Regulation
Peter	Ewer	Acting Executive Director, North Area	Department of Justice and Regulation
Carolyn	Gale	Deputy Secretary, Department of Justice and Regulation	Department of Justice and Regulation
Kylie	Kilgour	Deputy Secretary, Criminal Justice Strategy and Co-ordination	Department of Justice and Regulation
Gabrielle	Levine	DJR Southern Metro Director	Department of Justice and Regulation
Wayne	McEwen	Geelong Koori Court	Department of Justice and Regulation
Jan	Noblett	Executive Director, Justice Health	Department of Justice and Regulation
Peter-Shane	Rotumah	Victims of Crime	Department of Justice and Regulation
Annette	Stephens	Acting Gen Manager, CCS, Hume region	Department of Justice and Regulation
Greg	Wilson	Secretary, Department of Justice and Regulation	Department of Justice and Regulation
Kaylee	Anderson	LJW Manager, KJU	Department of Justice and Regulation, Koori Justice Unit
Tom	Bell	Deputy Director and Manager Stakeholder Engagement	Department of Justice and Regulation, Koori Justice Unit
Antoinette	Gentile	Director, KJU	Department of Justice and Regulation, Koori Justice Unit
Aislinn	Martin	Manager, Strategic Initiatives, KJU	Department of Justice and Regulation, Koori Justice Unit
Lisa	Moore	Manager, Policy Coordination, Koori Justice Unit	Department of Justice and Regulation, Koori Justice Unit
Mary	Morison	Manager, Community Programs, Koori Justice Unit	Department of Justice and Regulation, Koori Justice Unit
Thomas	Hugh	Acting Director, Aboriginal Affairs Policy	Department of Premier and Cabinet

First name	Surname	Position/Title	Organisation
Michael	Smith	Eastern Community Legal Centre (ECLC) Manager	Eastern Community Legal Centre
Sue	Clifford	Family Safety Victoria	Family Safety Victoria
Rebecca	Lannen	Director	Indigenous Affairs Network, Department of Prime Minister and Cabinet
Brian	Bissell	Sheriff Office, Geelong	Infringement Management and Enforcement Services
Brendan	Facey	Executive Director	Infringement Management and Enforcement Services
Roger	Williams	Operations Manager, Sheriff's, Bendigo and Echuca	Infringement Management and Enforcement Services
Patsy	Doolan	Chair, Loddon Mallee LAJAC - Mildura/Robinvale	LAJAC Chair
Nicola	Perry	Project Officer - Swan Hill/Kerang/Echuca; Acting EO Loddon Mallee	LAJAC Chair
Linda	Bamblett	Chair, Northern Metropolitan RAJAC	RAJAC Chair
John	Bell	Chair Barwon South West RAJAC	RAJAC Chair
Aileen	Blackburn	Chair, Gippsland Region	RAJAC Chair
Aileen	Blackburn	Chair, RAJAC, Gippsland Region	RAJAC Chair
Jemmes	Handy	Chair, Loddon Mallee RAJAC	RAJAC Chair
Marion	Hansen	Chair, Southern Metro Region	RAJAC Chair
Tony	Lovett	Chair, Grampians Region	RAJAC Chair
Robert	Nicholls	Chair, Hume Region RAJAC	RAJAC Chair
Lois	Peeler	Chair, Eastern Metropolitan RAJAC	RAJAC Chair
Annette	Vickery	Chair, Western Metropolitan RAJAC	RAJAC Chair
Vicki	Atkinson	RAJAC Executive Officer, Grampians	RAJAC EO
Matthew	Graham	RAJAC Executive Officer, Grampians	RAJAC EO
Jarrold	Hughes	RAJAC Executive Officer, SM	RAJAC EO
Anne-Marie	Kirkman	RAJAC Executive Officer, WM	RAJAC EO
Nicole	LeSage	RAJAC Executive Officer, Gippsland	RAJAC EO
Allan	Miller	RAJAC Executive Officer, BSW	RAJAC EO
Paula	Murray	RAJAC Executive Officer, LM	RAJAC EO
Sam	Nolan	RAJAC Executive Officer, EM	RAJAC EO
Troy	Austin	Deputy Chair, NM Region RAJAC	RAJAC Member
Peter	Lake	Director, member of BSW RAJAC	RAJAC Member
Kym	Monaghan	Co-Chair Barwon South West RAJAC	RAJAC Member
Graham	Ashton	Chief Commissioner	Victoria Police
Graham	Banks	South West Division Police	Victoria Police
Jonathan	Henderson	Shepparton ACLO	Victoria Police
Paul	Hollowood	Superintendent, Victoria Police	Victoria Police
Shane	Keogh	Warrnambool Police	Victoria Police
Taylor	Stewart	Police, ALO, Southern Metropolitan Region	Victoria Police
Jeannie	McIntyre	VACCA	Victorian Aboriginal Child Care Agency
Muriel	Bamblett	CEO	Victorian Aboriginal Childcare Agency
Jill	Gallagher	CEO	Victorian Aboriginal Community Controlled Health Organisation Inc
Geraldine	Atkinson	Chair	Victorian Aboriginal Education Association Inc.
Alfie	Bamblett	Chair, Victorian Aboriginal Justice Advisory Committee	Victorian Aboriginal Justice Advisory Committee
Wayne	Muir	CEO	Victorian Aboriginal Legal Services
Jida	Clark	Senior Aboriginal Advisor, VEOHRC	Victorian Equal Opportunity and Human Rights Commission

First name	Surname	Position/Title	Organisation
Catherine	Dixon	Executive Director, VEOHRC	Victorian Equal Opportunity and Human Rights Commission
DHHS Southern Region Focus Group		DHHS Southern Region	Department of Health and Human Services
Koori Reference Group Meeting			Koori Reference Group
Barwon South West Region RAJAC		Barwon South West RAJAC members	RAJAC
Eastern Metropolitan Region RAJAC		Eastern Metropolitan Region RAJAC members	RAJAC
Grampians Region RAJAC		Grampians RAJAC members	RAJAC
Hume Region RAJAC		Hume Region RAJAC members	RAJAC
Loddon Mallee Region RAJAC		Loddon Mallee RAJAC members	RAJAC
Northern Metropolitan Region RAJAC		Northern Metropolitan RAJAC members	RAJAC
Southern Metropolitan Region RAJAC		Southern Metropolitan Region RAJAC	RAJAC
Western Metropolitan Region RAJAC		Western Metropolitan RAJAC members	RAJAC

Appendix C The context in which the AJA has operated

C.1 Taskforce 1000

The Taskforce 1000 systemic inquiry was launched in 2014 by the Commission of Children and Young People and the Department of Health and Human Services to investigate how to stem the rapidly rising numbers of Aboriginal children in out of home care in Victoria – then totalling 922. In the course of the two year inquiry, their numbers rose by nearly 60 per cent to 1,700.

Aboriginal children represent 20 per cent of all children in state care despite Aboriginal people representing less than 1 per cent of the Victorian population. They are nearly 12 times more likely than non-Indigenous children to be put in out-of-home care.

The Taskforce 1000 report, *Always was, always will be Koori children: a systemic inquiry into services provided to Aboriginal children and young people in out-of-home care in Victoria*, was released in October 2016. The Taskforce found that the majority of Aboriginal children in care are not connected to their community and culture; do not know their heritage (particularly when their community is outside Victoria); have lost contact with their siblings; and lack cultural plans and cultural experiences.

Young people leaving care are amongst the most vulnerable and disadvantaged groups in our society. Research has shown that when young people transition from out-of-home care they have little emotional, social and financial support. Further, their educational outcomes are poorer compared with their peers. They are over-represented in the youth justice system and are at higher risk of mental illness, homelessness and early parenthood. (Commission for Children and Young People 2016: 96).

The trajectory from out-of-home care to youth justice is a disturbing reality for many young people. This is particularly the case for Aboriginal young people. Research has found that Aboriginal young people are particularly vulnerable to becoming immersed in a cycle of contact with the criminal justice system. The cycle is intensified by contributing factors such as limited education and employment opportunities, drug and alcohol dependence and insecure accommodation. (Commission for Children and Young People 2016: 97).

Many of the issues identified through the Taskforce inquiry have been the subject of discussion at the Aboriginal justice Forum including the matter of Certification of Aboriginality. At the completion of the inquiry eleven key findings led to nine high-level recommendations and 78 specific recommendations within the higher-level. Many of these have direct implication for justice agencies. Others are also important considerations for justice even though their impact may be more indirect.

C.2 Family Violence Royal Commission

A Royal Commission into Family Violence was established by the State Government on 22 February 2015 in the wake of a series of family violence-related deaths in Victoria. The Commission investigated criminal law, corrections and the courts and considered the role of support services, the health system and alcohol and drug treatment services, as well as those of refuges, housing and education. It also considered the resources and tools available to police.

The Commission found Aboriginal and Torres Strait Islander peoples, especially women and children, are disproportionately affected by family violence. The available data shows that Aboriginal peoples—

women and children in particular—experience family violence at significantly higher levels than other Victorians. They are more likely to be affected by family violence and face unique barriers to obtaining assistance—whether from a mainstream or culturally appropriate service. In its final report the Commission noted that “the injustices experienced by Aboriginal and Torres Strait Islander peoples, including the dispossession of their land and traditional culture, and the grief and trauma associated with policies leading to the wrongful removal of children from their families, have had a profound impact on these communities” (State of Victoria 2016: 7).

The Commission investigated a number of programs delivered in the justice sector that are highlighted as good examples of effective prevention and early intervention programs for women. These include ‘Sisters Day Out’, ‘DillyBag’ and ‘DillyBag: The Journey’ programs run by FVPLS Victoria. The report also refers to the Koori Community Safety Grants where \$2.4 million was made available for four three-year projects in Koori communities (part of an overall allocation of \$7.2 million under the Reducing Violence against Women and their Children grants program). Also, the Koori Family Violence Police Protocols, agreements between local Aboriginal communities and Victoria Police that document how local police must respond to family violence incidents; the Koori Family Violence and Victims Support Program.

A total of 227 recommendations were made to transform Victoria’s response to family violence. Recommendations pertain to:

- Support and Safety Hubs to make it easier for victims/survivors to find help and gain access to a greater range of services
- immediate funding boost to services
- a 'blitz' to rehouse women and children forced to leave their homes
- family violence training for all key workforces
- new laws to ensure that privacy considerations do not trump victims/survivors' safety
- a Central Information Point to funnel information about perpetrators to the Hubs
- expanded investigative capacity for police, mobile technology for front-line police, trial of body-worn cameras
- more specialist family violence courts that can deal with criminal, civil and family law matters at the same time
- expanded respectful relationships education in schools
- an independent Family Violence Agency to hold government to account.

As a result of the focus on family violence the Victorian Government budgeted \$80.6 million in 2014 – 15 for expenditure on programs and services addressing family violence. The Royal Commission was also advised that in relation to family violence involving Aboriginal people, ‘approximately \$10 million was spent directly on Aboriginal family violence in 2014–15. Of this 25 per cent was for prevention through broader programs and 75 per cent on responses to family violence’. Funding for Aboriginal services in the 2015–16 Victorian Budget included \$1.3 million for projects that improve Victoria’s immediate response to Aboriginal family violence, particularly in high risk communities, including targeted statewide and regional education and awareness campaigns. A further \$0.6 million was provided to Aboriginal support services and \$1.8 million was allocated to help Aboriginal community controlled organisations to respond to the findings of Taskforce 1000, including addressing some complex safety and wellbeing issues identified by the Taskforce. The Commission was told that an additional \$2.54 million was sourced from the National Partnership Agreement on Homelessness which expired on 30 June 2017. This includes funding for Aboriginal

legal support, Indigenous men's case management and intensive case management for women and children (State of Victoria 2016: 30).

C.3 Victorian Aboriginal Affairs Framework 2013-2018

The **Victorian Aboriginal Affairs Framework (VAAF) 2013-2018** replaced the previous **Victorian Indigenous Affairs Framework (VIAF)**. The new VAAF aims to integrate actions across government and direct existing and future government investment to those areas that demonstrate positive benefits and measureable outcomes for Indigenous Victorians. The VAAF has a strong focus on economic development and participation as a key means of ensuring Indigenous Victorians have every equal opportunity to fulfil their aspirations and achieve their full potential.

The VAAF also includes measureable targets for improving infant health, participation in kindergarten, secondary schooling attainment and labour force participation, whilst recognising and valuing Aboriginal culture. The VAAF is currently being reviewed with a new version to be developed by the end of 2018.

C.4 Commissioner for Aboriginal Children and Young People

The Commission for Children and Young People appointed the first Commissioner specifically for Aboriginal children and young people in 2013 (an Australian first). The position had been recommended in the 2012 *Report of the Protecting Victoria's Vulnerable Children Inquiry* to bring an increased focus to improving outcomes for vulnerable Aboriginal children across all service systems.

The Commissioner played an important role with the Koori Youth Council in facilitating the *Koorie Youth Summit* which led to the creation of the Koorie Youth reference Group which meets with the Commissioner on a regular basis to discuss views, experiences and emerging issues. The Commissioner has been a consistent contributor to the AJF representing Aboriginal children and young people who have been caught up in the justice system.

C.5 Release of the DHHS Korin Korin Balit Djak Strategy

The Department of Health and Human Services released the Korin Korin Balit Djak: Aboriginal Health, Wellbeing and Safety Strategic Plan 2017-2027 in October 2017. Korin Korin Balit-Djak covers five domains:

- Aboriginal community leadership
- prioritising Aboriginal culture and community
- system reform across the health and human services sector
- safe, secure, strong families and individuals
- physically, socially and emotionally healthy Aboriginal communities.

The strategy is accompanied by the *Aboriginal Governance and Accountability Framework* which sets out a set of governance mechanisms including:

- up to 17 Area Aboriginal Governance Committees (in line with the existing 17 local areas of the department), including conducting at least two community conversations per year for broader community engagement
- four Divisional Aboriginal Governance Committees (one for each Operational Division)

- one Aboriginal Strategic Governance Forum (state-wide), including an Aboriginal Evaluation and Research Committee.



Figure C.1: Aboriginal governance and accountability framework – governance mechanisms

C.6 Release of the Department of Education's Marrung Education Plan

The Marrung Aboriginal Education Plan was developed by the Department of Education with Victorian Aboriginal Education Association Incorporated, Victorian Aboriginal Child Care Agency and Victorian Aboriginal Community Controlled Health Organisation. The ten-year integrated plan aims to improve educational outcomes for Koorie Victorians across the early childhood, schools and higher education and training sectors.

In releasing the Plan the Minister also announced \$12.7 million to support key school-based programs within the plan, including:

- A cultural understanding and safety program to help schools better support Koorie students
- Extended Early Years Koorie Literacy and Numeracy to provide an additional two years' support to Koorie students in Years 4 and 5 who have not met National Minimum Standard in Year 3 NAPLAN
- Expansion of the Koorie Academy of Excellence to encourage Koorie students to complete Year 12 and continue onto further study
- Koori Children's Court Liaison Officers to support Koorie children and young people who appear before the Court to continue learning (Media Release of the Minister for Education, July 2016).

It has been well-established that the difference in educational attainment between Aboriginal and non-Aboriginal youth is a powerful determinant of the overrepresentation of Aboriginal youth in the justice system (Commonwealth of Australia 2011). Investment into improving educational outcomes for Aboriginal children and young people should bring a flow-on effect to reducing their rate of contact with the justice system.

The governance structure for Marrung includes Local Aboriginal Education Consultative Groups, Koorie Education Roundtables, Regional Partnership Forums as well as the state level Marrung Governance Committee.

C.7 Legislative reform

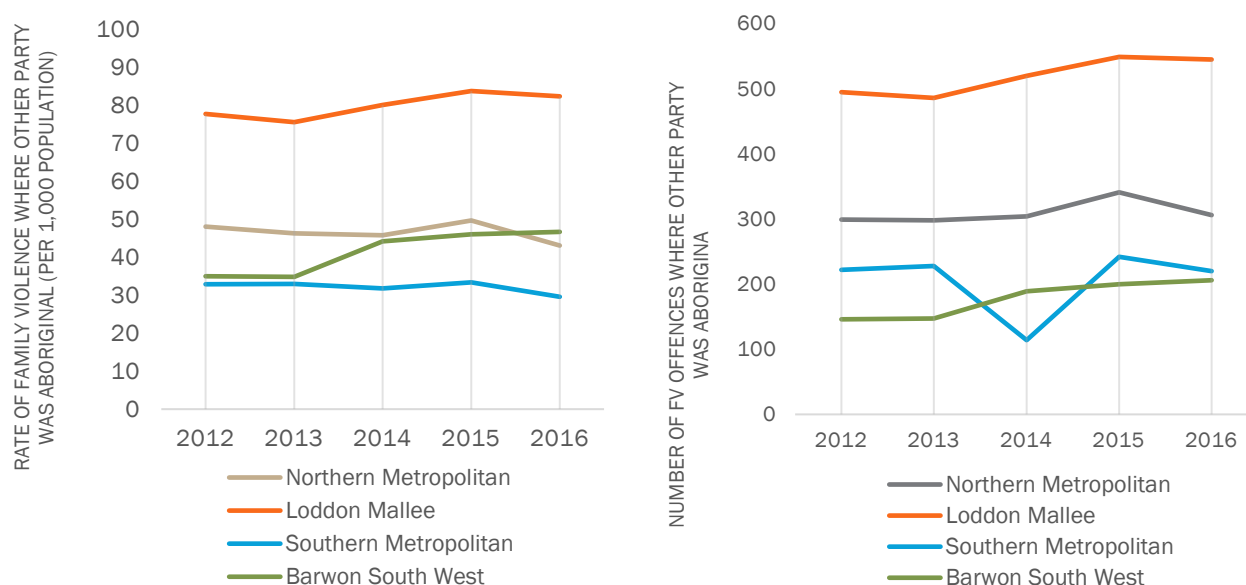
Leading up to the signing of AJA3 and during its operation a number of legislative reforms in the criminal justice space were enacted that have disproportionately impacted Aboriginal people in Victoria. Following is a brief discussion of the major reforms implemented as part of a 'tough on crime' agenda. Reforms centred on family violence, bail provisions and sentencing.

C.7.1 Reforms in family violence

The issue of family violence was brought to the fore in the wake of a series of family violence-related deaths in Victoria. A Royal Commission into Family Violence was established in 2015 tasked in part to "develop and refine systemic responses to family violence—including in the legal system and by police, corrections, child protection, legal and family violence support services".

Research commissioned by the Royal Commission tracked family violence incidents in Victoria between 2009 and 2014. Over that period, the incidence of family violence had increased across all aspects of the family violence system. The number of family incidents recorded by Victoria Police increased by 82.7%; the number of finalised applications heard in the Magistrates' and Children's court increased by 34.5% and 33.0% respectively; the number of people accessing family violence services increased by 11.7%; and the total number of services provided by Victoria Legal Aid where the primary matter was family violence related also increased in the five years from July 2009.

Aboriginal and Torres Strait Islander data were only available for in the Victorian Emergency Minimum Dataset (VEMD), Victims Assistance Program (VAP) and Specialist Homelessness Services Collection (SHSC) datasets¹⁶, with data either not recorded or of low quality amongst the other contributing datasets. In the five years from July 2009, the proportion of recorded indigenous status across these three datasets has remained relatively stable. In 2013–14, 5% of patients in the VEMD and VAP datasets identified as Indigenous, and in the three years to July 2011, on average 10% of SHSC clients identified as Indigenous. Police data contained within the Crime Statistics Agency Aboriginal Justice Indicators – Victoria Police dashboard reviewed for this evaluation shows data for the period 2012 to 2016. The number of offences where the other party was Aboriginal has remained relatively static over the period in the four regions under investigation as the figures below indicate.



The data, however, does not correspond to information we were hearing from agencies and communities during this evaluation. Without exception interviewees, when they referred to Aboriginal family violence, talked about how it was increasing and of the deleterious impact it had on individuals, families and communities. We suspect that the disparity between the 'official' data and the perceptions on the ground is the recording of Aboriginal status by justice agencies does not accurately reflect an individual's Aboriginality. The data presented to the Royal commission does show an alarming increase in the number of Aboriginal family members affected by family violence, particularly when seen in comparison to the non-Aboriginal population as shown in Figure 3-1 below. An Aboriginal person was 7.3 times more likely than a non-Aboriginal person to be an affected family member in a family violence incident (State of Victoria, 2016).

¹⁶ The Victorian Emergency Minimum Dataset contains information detailing presentations at Victorian public hospitals with designated Emergency Departments; Data collected from the VAP includes demographic information of the victim, location data, information on the crime type and how the client was referred to the agency; SHSC data is sourced from agencies providing homelessness services.

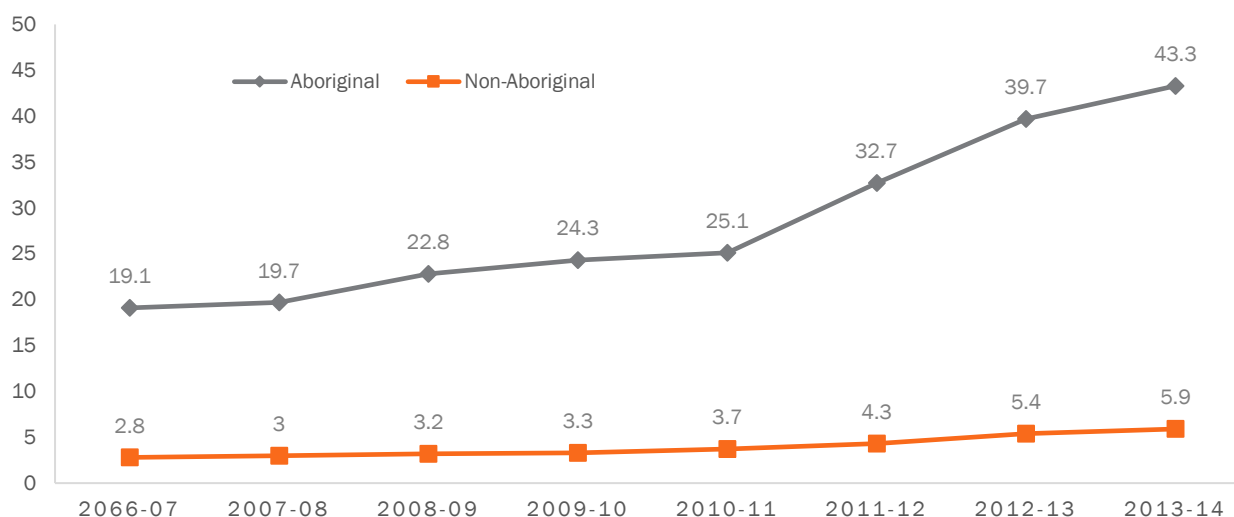


Figure C.1 Family violence incidents per 1000 population: Indigenous and non-Indigenous affected family members, 2006-07 to 2013-14 (Source: State of Victoria, 2016)

C.7.2 Reforms to bail management

A 2010 amendment to the *Bail Act 1977* required that bail decision-makers must take account of a person's Aboriginal status when making a determination. Further, courts must take account of issues that arise because of a person's Aboriginality including consideration of

7. the persons cultural background, including the person's ties to extended family or place and
8. any other relevant cultural issue or obligation (Section 3A, *Bail Amendment Act*, 2010).

The five years following proclamation of the *Bail Amendment Act 2010* there was a 90 per cent increase in the number of bail applications in the Magistrates' Court. The number of Aboriginal people released to bail increased over the period 2009-10 and 2014-15 from 71 to 252 (Corrections Victoria, 2016a).

Further amendment to the Act occurred in 2013 and sought to list commonly imposed bail conditions; make it an offence to contravene certain bail conditions and make it an offence to commit an indictable offence and ensure the same magistrate or judge heard further bail applications (*Bail Amendment Act*, 2013). In the year following the implementation of the *Bail Amendment 2013*, the total number of bail breaches grew significantly – an increase of 67 per cent.

In their report *Unfinished Business*, the Victorian Equal Opportunity and Human Rights Commission (2013) suggested that bail decision makers are not fully utilising the provision of Section 3A of the Act to take account of a person's cultural background, especially for Aboriginal women. This, they argued, represented "a lost opportunity to reduce the number of Koori women entering prison on remand, especially when less than 15 per cent of these women end up receiving a custodial sentence". In many situations, women are denied bail because of a chronic lack of safe, stable and secure accommodation to which they can be bailed, particularly in regional locations.

The *Bail Amendment (Stage One) Act 2017* amends the *Bail Act 1977* so that decision makers, including magistrates and judges, will be required to place a higher priority on community safety when making bail decisions. Bail will be refused for a range of new offences, including aggravated home

invasion and aggravated carjacking, unless there are exceptional circumstances. Additionally, bail will be refused for many more offences unless the accused can demonstrate compelling reasons. These offences include:

1. rape
2. kidnapping
3. armed robbery
4. intentionally or recklessly causing serious injury with gross violence
5. culpable driving causing death
6. dangerous driving causing death or serious injury
7. dangerous or negligent driving while pursued by police
8. persistent contravention of a family violence intervention order

People who commit serious indictable offences while on bail, summons, parole, a community correction order or under sentence will not be granted bail again unless they can prove there are exceptional circumstances.

The effects of this latest amendment will need to be investigated to determine whether it will have a disproportionate impact on Aboriginal Victorians. On the basis of earlier amendments, it seems likely that such impacts will be felt.

C.7.3 Reforms in sentencing

Major sentencing reforms occurred in 2010, in 2013 and again in 2016. The 2010 legislative amendments to sentencing aimed to provide more flexible non-custodial sentencing by allowing courts to impose Community Corrections Orders for longer periods, include higher numbers of community work hours and attach a greater range of conditions to address specific offending behaviours. In 2013 the provision for suspended sentences was abolished for all offences¹⁷. The amendment also brought in a modernisation of provisions in relation to fines, including new sentencing powers to deal with unpaid court fines. This aimed at keeping disadvantaged people who are unable to pay fines out of prison by introducing the following:

1. A new right to apply for the rehearing of a fine order.
2. New and wider sentencing options where fines are unpaid.
3. Greater flexibility in dealing with persons with an undisclosed/unidentified mental illness or intellectual disability or other special circumstances.
4. Allows courts to determine whether special circumstances may exist or whether there is new or previously disclosed information that may render imprisonment excessive, disproportionate or harsh.

¹⁷ The abolition of suspended sentences began in 2010 for serious offences including death, serious injury, sexual penetration and robbery. In 2011, suspended sentences were unable to be used for “significant offences” including serious injury recklessly, arson offences, aggravated burglary and serious drug trafficking offences. In 2013 they were removed from supreme and county court sentences before being abolished in magistrate courts the following year.

5. Allows courts to reduce or discharge court-ordered fine if the offender cannot pay their fine because of a material change in their circumstances.
6. Further reform to empower the courts to take away an offenders' licence for any offence where the court considers doing so will better protect the community or send a clear message to the offender.

Following the introduction of community corrections reform and the abolition of suspended sentences, 70 per cent of offenders who would typically have received a suspended sentence received a Community Corrections Order, resulting in a significant increase in offenders reporting to community correctional services across the state. This increase in offender numbers was felt to a greater extent within the Aboriginal population. The Aboriginal offender population being managed by Community Corrections Services increased by 48 per cent between June 2011 and June 2015 (Corrections Victoria, 2016a). More than half of this increase (26%) occurred between 2014 and 2015 and was followed by a further 20 per cent increase from June to December 2015 (Corrections Victoria, 2016a). The consequence of the change was particularly felt in the Grampians and West Metropolitan regions, which saw an increase of 172 per cent and 96 per cent respectively between 2014 and 2015 (Corrections Victoria, 2016a).

Amendments introduced in 2017 disallowed the use of Community Corrections Orders and other non-custodial options for ten category 1 offences including rape, murder, and causing serious injury. CCOs and other non-custodial orders were also not permitted, except where special reasons apply, for category 2 offences such as manslaughter, child homicide, kidnapping and intentionally causing serious injury. Further, the length of imprisonment that could be combined with a CCO was halved from two years to one year or less. A non-parole period now cannot be fixed as part of a combined order – meaning offenders must serve their full term of imprisonment before beginning their CCO. Previously, a CCO could be imposed for up to the maximum term of imprisonment for the relevant offence. The proposed laws limit the maximum length a CCO can be imposed to five years. (*Sentencing (Community Correction Order) and Other Acts Amendment Act 2016*)

C.8 Reforms in correctional services (parole)

Parole reform in 2013 and 2014 brought significant shift in the number of parole applications granted and declined. Specifically, there was a doubling of the number of applications denied and decrease of about a third in the number of applications granted. Additionally, there was a 38 per cent decrease in the number of parole review requests accepted and a 146 per cent increase in the number rejected. The result of these shifts was an increasing trend in the total prisoner population.

Findings included in an unpublished DJR report¹⁸ on the reforms concluded the parole reforms had disproportionately affected Aboriginal Victorians. As a result of these reforms, Aboriginal offenders are more likely to receive sentences without a parole period and have limited opportunities to access parole. Once in prison, Aboriginal offenders are less likely to be considered for parole due to their overrepresentation in violent offences. Aboriginal offenders are also more likely to spend extended periods of time on remand, limiting their access to rehabilitation programs required for parole. Further, as prisoners need a release address before applying for parole, Aboriginal offenders are further disadvantaged due to the high rates of homelessness within the community. Finally, the new requirement for prisoners to apply for parole, instead of automatic consideration, is likely to have disproportionately affected Aboriginal offenders based on their access to other justice services.

¹⁸ Department of Justice and Regulation Koori Justice Unit (2016). *Is 'Tough on Crime' legislation tougher on Koories?*, October 2016

Aboriginal prisoners released to parole have low-levels of completion and high rates of returning to prison under a parole breach. Aboriginal prisoners we interviewed for this evaluation reported a preference for completing their term in prison to be released to freedom because they felt their chance of completing a parole order was low because of the conditions imposed and the challenges they faced reintegrating back into the community.

C.9 Reforms in youth justice

The transfer of Youth Justice Services from the Department of Health and Human Services to the DJR occurred in April 2017. At the same time Corrections Victoria assumed responsibility for maintaining the safety and security of youth justice facilities. Opposition to the move came from a number of quarters with concerns that it “risks the system losing its focus on rehabilitation and age appropriate responses which critically makes it far less likely for young people to be repeat offenders. Restrictive and punitive approaches do not work”¹⁹. It is yet to be seen whether these concerns were justified nor whether the transfer of responsibility for youth justice had had a disproportionately worse outcome for Aboriginal young people.

The *Children and Justice Legislation Amendment (Youth Justice Reform) Act 2017* introduced a range of reforms in the youth justice area including those listed below:

1. increased penalties for young people committing serious and violent crimes.
2. young offenders will face longer detention periods of up to four years, risk having their cases being heard in higher courts, and youths who assault youth justice officers while in detention may face more severe penalties.
3. uplifting serious youth offences, such as aggravated home invasion and aggravated carjacking, from the Children’s Court to the higher courts for those aged 16 years or older.
4. serious youth offenders aged 18-21 will no longer be able to be sentenced to detention in a youth justice facility, unless exceptional circumstances apply.
5. a new presumption that young offenders who damage property, escape or attempt to escape from a youth justice facility will serve their sentences on top of an existing period of detention, regardless of age.
6. a new Youth Control Order imposing intense requirements for supervision, support and court monitoring for up to 12 months.
7. a new offence for adults aged 21 or over who recruit a child aged under 18 to engage in criminal activity, and will have a maximum penalty of 10 years imprisonment
8. the Youth Parole Board to impose certain parole conditions (e.g. rehabilitation and treatment, curfews, non-association) when granting parole to an offender serving detention for a serious youth offence.
9. establishes a tailored pre-plea youth diversion scheme in both the criminal division of the Children's Court and the Children's Koori Court.

¹⁹ This comment was made by Tiffany Overall of the justice advocacy group Smart Justice for Young People and cited in the Law Institute Journal March Flipbook article ‘Lawyers fear youth crackdown’, 1 March 2017 retrieved from <https://www.liv.asn.au/Staying-Informed/LIJ/LIJ/March-2017/Lawyers-fear-youth-crackdown>

It is too early to determine if the amendments introduced through this Act are adversely affecting Aboriginal youth and young people more so than their non-Aboriginal peers.