

**Aboriginal Justice Caucus submission on the Legislative Council Legal and Social Issues
Committee Inquiry into Victoria's Justice System**

The Aboriginal Justice Caucus (AJC) is a self-determining body that works in partnership with the Victorian Government to improve Aboriginal justice outcomes, family and community safety, and reduce over-representation in the criminal justice system. Its members are the Chairs of the Regional Aboriginal Justice Advisory Committees, Aboriginal community leaders, and representatives from Aboriginal peak bodies and Aboriginal Community Controlled Organisations. The AJC are signatories to *Burra Lotjpa Dunguludja* (Aboriginal Justice Agreement phase 4).

The AJC is a conduit between the Aboriginal community and justice system in order to provide leadership, advocacy and spur change to address the drivers of offending, and to amend policy and systemic reform within the criminal justice system.

September 2021



**Aboriginal
Justice Caucus**

Note on terminology: The word *Aboriginal* is the preferred terminology used in Victoria and is used throughout this document. The Aboriginal Justice Caucus recognise the right of various language groups to identify specific language nations and groups, however for the purpose of this document the word Aboriginal will be used and includes reference to Torres Strait Islander people.

The Aboriginal Justice Caucus acknowledge the Traditional Custodians of the land and waters throughout Australia. We pay respects to Elders past, present and emerging.

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Role of the Aboriginal Justice Caucus

The Aboriginal Justice Caucus (AJC) is a self-determining body that provides state wide Aboriginal representation, leadership and a strong voice for the Aboriginal community in all areas relating to justice. The AJC comprises Aboriginal community representatives who are signatories to the Aboriginal Justice Agreement (AJA). Under the AJA, the AJC play a crucial role as the conduit between community and government advocating for systemic reform of the justice system and steering change to address the causes of offending that lead to the overrepresentation of Aboriginal people in the criminal justice system.

The first Victorian AJA was established in 2000 in direct response to the 339 recommendations handed down in the 1991 Royal Commission into Aboriginal Deaths in Custody (RCIADIC) and Subsequent 1997 National Ministerial Summit on Indigenous Deaths in Custody. The first Victorian Aboriginal Justice Agreement (AJA1) saw the establishment of a robust partnership between the Victorian Government and Aboriginal community by setting aims, strategies, principles and roles and responsibilities of its signatories to form the basis of achieving equity between the government and Aboriginal community. AJA1 laid the foundation for Agreements to come. The second phase of the Victorian Aboriginal Justice Agreement (AJA2) took a placed based approach to recognise the importance of strengthening community and building capacity to enable crime and justice related issues to be addressed locally. An independent evaluation of AJA2 reported positive outcomes including a reduction in the number of youths coming into contact with police and a reduction in the number of Aboriginal people reoffending¹. The AJA2 partnership structures set a strong foundation for achieving outcomes and developing future initiatives, which saw the continuation over a third phase of the Victorian Aboriginal Justice Agreement (AJA3). Its focus was on enhancing the existing approach as the best way to tackle the complex and intergeneration issues and achieve sustainable change over time by focussing on building stronger families and safer communities as a means of improving justice outcomes². *Burra Lotjpa Dunguludja* is phase four of the Victorian Aboriginal Justice Agreement (AJA4) and affirms the Victorian Government's commitment to self-determination and upholds that self-determination is the only policy approach to produce effective and sustainable outcomes for Aboriginal and Torres Strait Islander people around the world³.

The RCIADIC Final Report found that the single most significant contributing factor to Aboriginal people's involvement in the criminal justice system was the unequal position of Aboriginal people in society in every way, including socially, economically or culturally⁴. Since the 1991 Final Report there has tragically been at least 475 Aboriginal deaths in custody across Australia⁵. In spite of this number one third of RCIADIC's recommendations have not been fully implemented in Victoria despite the rigorous Final Report highlighting the underlying social, cultural and legal issues behind the disproportionate rate of Aboriginal deaths in custody. Since its release, Aboriginal communities and organisations have identified missing and emerging issues from the Final Report, requiring another layer of recommendations to strengthen those outlined in 1991.

The AJC has long and unequivocally urged the Victorian Government to implement all of the recommendations from RCIADIC. These seminal recommendations should be central in forming the body of work of this new inquiry into Victoria's justice system. To further these original recommendations, the AJC advocate for various policy reforms associated with the operation of

¹ Nous Group, Victorian Aboriginal Justice Agreement Phase 2 Evaluation Report, May 2021

² Victorian Government, Aboriginal Justice Agreement Outcomes, aboriginaljustice.vic.gov.au/outcomes

³ Victorian Government, 2018 *Burra Lotjpa Dunguludja* - Victorian Aboriginal Justice Agreement Phase 4

⁴ Hansard, 9th May 1991, Royal Commission into Aboriginal Deaths in Custody

⁵ The Guardian, 16th May 2021, *Aboriginal deaths in custody reports to be increased to every six months after years of delays*, <https://www.theguardian.com>

Victoria's justice system which will be outlined in this submission. The AJC believe that enabling greater Aboriginal self-determination through the implementation of these recommendations will result in better outcomes for Aboriginal people.

The lack of transparency and accountability of the justice system by Government over the last thirty years is why the AJC is calling on the Victorian Government to immediately establish an Aboriginal Social Justice Commissioner. The establishment of an Aboriginal Social Justice Commissioner has been costed with the assistance of the Koorringi Justice Unit and the Department of Justice and Community Safety but is yet to be funded. The call to establish an Aboriginal Social Justice Commissioner is not a new one, the AJC has advocated for this since 2005 and remains one of our highest priorities.

The Aboriginal Social Justice Commissioner will be responsible for ensuring greater accountability and monitoring of the implementation of RCIADIC recommendations, the Commissioner's functions would increase the Aboriginal community's confidence in the operations of the justice system by ensuring, through continuing, robust oversight and monitoring, that our people have access to culturally safe and effective justice services. The AJC has worked with the Victorian Government on many successful initiatives over the past 21 years through various phases of the AJA. Through the Aboriginal Justice Forum, we have realised many successful initiatives and outcomes, yet this critical role has not been prioritised by a government that claims to prioritise Aboriginal Self-Determination. The AJC believe that implementing an Aboriginal Social Justice Commissioner will progress further achievements that support the Victorian Government's joint commitment to Self-Determination under the AJA.

The following submission will give an overview of the AJC priorities as they relate to the terms of reference of the Legislative Council Legal and Social Issues Committee Inquiry into Victoria's Justice System. Along with the original 339 recommendations made in the RCIADIC 1991 Final Report, the AJC hope that these recommendations will be implemented by the Victorian government to better the lives of all people, but particularly, the lives of Aboriginal people who make contact with the justice system.

[An analysis of factors influencing Victoria's growing remand and prison populations](#)

Aboriginal young people and adults are significantly overrepresented in the criminal justice system, reasons for this are complex and enduring. The *Royal Commission into Aboriginal Deaths in Custody* Final Report found that the most significant contributing factor to Aboriginal people's involvement in the criminal justice system was the disadvantage and unequal position of Aboriginal people in Australian society, including socially, economically or culturally⁶. RCIADIC concluded that addressing various aspects of Aboriginal social and economic disadvantage is crucial for reducing involvement in the criminal justice system.

The strength and resilience of Aboriginal people, families and communities is compromised by multifaceted problems, including historical and ongoing dispossession, marginalisation, racism, as well as the legacy of past policies of forced removal and cultural assimilation. The enduring consequences of colonisation and legacy of historical dispossession continue to harmfully impact on Aboriginal people, families and communities. The *Bringing Them Home Report* highlighted the insidious and intergenerational impacts of child removal on cultural links, family and communities⁷. This report recommends implementing the recommendations made in the RCIADIC Final Report,

⁶ Hansard, 9th May 1991, Royal Commission into Aboriginal Deaths in Custody

⁷ Human Rights and Equal Opportunity Commission (1997) *Bringing Them Home: Report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families*, HREOC, Canberra

which aims to address underlying issues of social disadvantage that leads to contact with the criminal justice system.

Aboriginal people make contact with the justice system at higher rates than non-Aboriginal people and are disproportionately overrepresented in Victoria's remand and prison populations. Not only are Aboriginal people overrepresented across all stages of Victoria's criminal justice system, Aboriginal people are imprisoned at the highest rate of any people in the world⁸. In Victoria, the imprisonment rate of Aboriginal people in prisons has increased by almost doubled between 2010 and 2020. In Victoria, Aboriginal people comprise approximately 9 per cent of those incarcerated yet they represent just 0.8 per cent of the population⁹. Overall, Victorian's imprisonment rate grew from 97.1 to 184.8 per 100,000 adults¹⁰. During this period the imprisonment rate for all Victorians grew from 107.2 to 134.1, representing a disproportionate and significantly higher incarceration rate for Aboriginal Victorians¹¹. Analyses thus far regarding the over-representation of Aboriginal people in the justice system, including RCIADIC, have overlooked Aboriginal women: see Change the Record and HRLC's joint report, *Over-represented and overlooked: the crisis of Aboriginal and Torres Strait Islander women's growing over-imprisonment*. However, the reality is that Aboriginal women are now the fastest growing prison population in the country, including in Victoria. There needs to be a specific gender-based response to this crisis.

Punitive amendments made under the Victorian Bail Act 2016 have resulted in conservative sentencing decisions and more people placed on remand. These changes took place following a review of the bail system after the Bourke Street tragedy in which six people were killed in Melbourne's CBD. Victoria's bail laws are a major contributing factor to the state's growing prison population, and they are attributed to vulnerable women being refused bail for non-violence and minor crimes. In 2008, there were 15 Aboriginal women in Victorian prisons with 20.4 per cent on remand¹². In June 2019 there were 575 women in Victorian prisons with Aboriginal women representing 13 per cent of those incarcerated. Of these Aboriginal women, 47.7 per cent were on remand¹³.

It is necessary for policy reforms, including punitive bails laws, to take place in order for the Victorian Government to meet its Closing the Gap targets for reducing incarceration. Without reforms progress will go backwards. For instance, many Aboriginal women who are incarcerated are mothers (80% of women in prison are mothers nationally¹⁴) and care givers¹⁵, whereby imprisoning them risks their children being placed in out-of-home-care. Aboriginal children and young people in out-of-home care are the most likely to interact with youth justice system. The Victorian Legal Aid (VLA) report that:

- Almost 1 in 3 young people VLA assist with child protection matters who are placed in out-of-home care later return to VLA for assistance with criminal charges;

⁸ Roettger, M., Lockwood, K., and Dennison, S, 2019, "Indigenous People in Australia and New Zealand and the intergeneration effects of incarceration", Research Brief 26, *Indigenous Justice Clearinghouse*

⁹ Gearin, M, and Michie, F, 2019, Victorian moves to decriminalise public drunkenness on eve of Tanya Day inquest

¹⁰ <https://www.sentencingcouncil.vic.gov.au/sentencing-statistics/victorias-indigenous-imprisonment-rates>

¹¹ Ibid

¹² Crivellaro, G, 9th October 2020, 'Number of Indigenous women in Victorian prisons skyrocketing', National Indigenous Times

¹³ Crivellaro, G, 9th October 2020, 'Number of Indigenous women in Victorian prisons skyrocketing', National Indigenous Times

¹⁴ HRLC/CTR report 'Overrepresented and Overlooked: the crisis of Aboriginal and Torres Strait Islander women's growing imprisonment' 2017

¹⁵ 80% of women in prison are mothers (National): HRLC/CTR report 'Overrepresented and Overlooked: the crisis of Aboriginal and Torres Strait Islander women's growing imprisonment' 2017

- Young people that VLA assist in out-of-home care are almost twice as likely to face criminal charges as those who remain with their families;
- Young people VLA assist placed in out-of-home care are more likely than other children to be charged with criminal damage for property related offending¹⁶

Low level offending like non-payment of fines, shop lifting and minor breaches of bail conditions such as not attending a police station should trigger targeted, culturally safe family support. In the same way, offences committed by children aged 10-13 should trigger targeted, culturally safe family support. Low level offending and action of children aged 10-13 should never be triggers for widening the numbers of Aboriginal people in custody, traumatising further Aboriginal people and their families and communities and limiting the potential for positive futures.

Aboriginal children and young people are vastly overrepresented in Victoria's criminal justice system. On an average day in 2019-20 in Victoria, Aboriginal children and young people represented 15 per cent of all children and young people aged 10-17 years under Youth Justice supervision, despite making up 1.5 per cent of Victorian children and young people aged between 10-23 years¹⁷. During this period Aboriginal children and young people were 10 times more likely to than non-Aboriginal to be under community-based supervision, and 9 times more likely to be in youth justice custody¹⁸.

Strategies to reduce rates of criminal recidivism

Policy makers need to understand that social problems are deeply entrenched and ought to be approached with consideration of historical, social, community, family and individual factors. It is imperative that Aboriginal people and communities lead the design of policies and legislation that affects us. Similarly, programs and services need to be designed, delivered and evaluated by and with the Aboriginal community. When Elders, community members and other Aboriginal organisations and service providers are engaged in consultative and development processes the most important needs of the community can be distinguished and the most appropriate methods of implementation can be identified.

Progressing self-determination necessitates new and enhanced roles for Aboriginal people, our communities and the organisations that represent us. The AJC continue to advocate for increased Aboriginal participation in government process, policy and program design, which is critical to the realisation of Aboriginal self-determination. In developing AJA4, the AJC developed principles, through our work to define self-determination in the justice system, to guide the development of initiatives under the Agreement¹⁹. These are:

1. Prioritise self-determination: Always strive to transfer power, decision-making and resources to the Aboriginal community.
2. Support cultural strengthening: Enhance positive connections to family, community and kin to build resilience to setbacks and develop strategies for dealing with hardships.
3. Be strengths-based: Respect and honour the strengths and resilience of Aboriginal people, families and communities and build upon these.

¹⁶ Victorian Legal Aid, 2016, Care Not Custody Report – A new approach to keep kids in residential care out of the criminal justice system

¹⁷ Commission for Children and Young People, *Our youth, our way: Inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system, Summary and recommendations*, Commission for Children and Young People, Melbourne, 2021

¹⁸ *ibid*

¹⁹ Victorian Government, 2018 *Burra Lotpja Dunguludja* - Victorian Aboriginal Justice Agreement Phase 4

4. Be trauma-informed: Employ healing approaches that seek to understand and respond to trauma and its impact on individuals, families and communities.
5. Be restorative: Aim for the restoration of victims, people who have offended and communities and repair the harm resulting from the crime, including harm to relationships.
6. Use therapeutic approaches: Recognise that at all stages of involvement with the justice system there is potential to make a positive impact on a person's life.
7. Respond to context: Recognise and adapt to meet the specific needs and circumstances of people, families, and communities.
8. Be holistic: Address the interrelated risk factors for offending in a holistic manner, such as substance abuse, housing, and unemployment.
9. Protect cultural rights: Respect the distinct and unique rights of Aboriginal people.
10. Address unconscious bias: Identify and respond to systemic racism and discrimination that persists in the justice system.

Strengthen social and economic factors to reduce risk of justice system involvement

Confirmation of Aboriginality

Concerns relating to Confirmation of Aboriginality (CoA) have been raised at the Aboriginal Justice Forum and other Aboriginal community-government forums over several years. There is a lack of a consistent approach in dealing with CoA that requires a cultural authority approach. Forums have been conducted across number of Regional Aboriginal Justice Advisory Committees (RAJAC) and the AJC has raised this concern as a priority for many years due to its effects on medical and health access, housing, education, and scholarships. The AJC argue that without robust CoA processes, Aboriginal specific employment opportunities and programs resources can be diverted to benefit non-Aboriginal people, thus contributing to entrenched Aboriginal poverty and poorer outcomes, including the overrepresentation in the criminal justice system.

CoA processes are slowly being recognised by the Victorian Government, including the Department of Justice which now does not accept Statutory Declarations as a CoA. On the 28th April 2021 representatives from the AJC presented to the Secretaries Leadership Group to outline the need for whole of government processes relating to CoA to be consistent across government. As a starting point, the AJC recommend that all Government Departments cease the acceptance of Statutory Declarations as confirmation of Aboriginality and that fraudulent claims of Aboriginality and Statutory Declarations be examined and prosecuted under the Oaths and Affirmations Act. Following this reform, the AJC envisage that an independent, well-resourced Aboriginal-led authority ought to be established for researching and processes CoA applications. In addition, this independent authority will assist and refer individuals to existing organisations for members of the Stolen Generation to research family connections.

Homelessness and Investments in Safe and Secure Housing

It is imperative that stable and appropriate housing is accessible to people who are homeless to reduce the likelihood of interaction with the justice system and for those leaving prisons in order to reduce the cycle of re-offending. Aboriginal Housing Victoria (AHV) report that Aboriginal Victorians presented to a specialist homelessness service at a rate of 17 per cent in 2019-2020, or

ten times the rate of non-Aboriginal Victorians. AHV also report that Victoria has the highest and fastest growing rate of Aboriginal people seeking homeless support in Australia, and the rate of homelessness has grown by 33.6 per cent in the past four²⁰

Homelessness is a major driving factor in child removal, growing incarceration rates in youth homelessness, low educational outcomes, family violence (has been identified as the leading cause of homelessness in Victoria²¹), and poorer health and mental health outcomes for Aboriginal people²². It has been AJC observation that housing instability and a lack of culturally appropriate supports is also one of the key reasons for Aboriginal women being put on remand.

In 2015-16 in Victoria, 75% of Aboriginal women entering remand were experiencing some form of housing instability or homelessness²³. There is an incredible amount of evidence to suggest that post-release housing reduces likelihood of reoffending and further imprisonment²⁴. Aboriginal Housing Victoria's (AHV) Housing and Homelessness framework, *Mana-na woorn-tyeen maar-takoort*, outlines that access to stable, secure and appropriate housing plays a key role in reducing recidivism, and is vital to break cycles of disadvantage and homelessness²⁵.

Culturally appropriate legal assistance

Aboriginal people need culturally safe Aboriginal Community Controlled Organisation (ACCO) legal assistance when legal assistance is required. With more than half of Aboriginal people in Victoria living outside of Melbourne, this means readily accessible, culturally safe legal services where Aboriginal people live. Since 1973, VALS has provided culturally safe legal services to Aboriginal people in Victoria and demand has grown. There were 4,400+ matters that VALS dealt with across criminal, family and civil law practices in 2019/20, up 23 per cent on 2018/19, with 86 per cent of clients supported in legal matters also supported by VALS community justice workers (3,790 individual clients). This growth continued during the COVID-19 pandemic, with at least a 30 per cent increase in family law matters and more increases in criminal law matters outside of Melbourne. Despite its clients living across all of the state, VALS is chronically underfunded.

The AJC strongly recommend that the Victorian Government increase recurrent funding to VALS so they are able to safely provide legal assistance to Aboriginal people across the state. In addition to addressing the immediate needs of VALS and Aboriginal people in Victoria for culturally safe legal assistance, the Government should fund VALS sufficiently to offer Aboriginal people ready access to legal and support services where they live. The cost of not investing in essential services such as VALS is likely to result in further preventable deaths in custody.

Djirra is an Aboriginal Community Controlled legal service, specialising in family violence. While Djirra does not have a criminal law practice, Djirra works with Aboriginal and Torres Strait Islander women who are currently, have prior experience of, or are at risk of incarceration. Djirra provides holistic legal and non-legal support via early-intervention and prevention programs to Aboriginal women in prison through the Koori Women's Place, Dilly Bag and Sisters Day In, as well as Prisoner Support Programs. As family violence is one of the main drivers of incarceration, these holistic legal and non-legal support services and programs are integral to preventing the incarceration or reincarceration of Aboriginal women. In community, our lawyers provide legal education to

²⁰ Aboriginal Housing Victoria, 26 February 2020, Community demands action on Victoria's housing crisis – media release

²¹ Parliament of Victoria (2021). Inquiry into Homelessness in Victoria: Final Report.

²² *ibid*

²³ Corrections Victoria (2019). Women in Prison

²⁴ Wills, M, 2018 Supported housing for prisoners returning to the community: A review of the literature, Australian Institute of Criminology, Canberra

²⁵ Aboriginal Housing Victoria, 2020, The Victorian Aboriginal Housing and Homelessness Framework, *Mana-na woorn-tyeen maar-takoort: Every Aboriginal person has a home*

Aboriginal women who have been misidentified as perpetrators of family violence and have had an IVO made against them. This education assists women to understand these orders and prevent breaching them, thereby avoiding contact with the criminal justice system. The secure and ongoing funding of Djirra's programs and services thereby contributes to the goal of reducing recidivism or preventing contact with the justice system in the first place.

Prevent early involvement with the criminal justice system

Raising the age of criminal responsibility

Criminalising the behaviour of children creates a cycle of disadvantage and marginalisation that may lead to vulnerable children and young people to become entrenched in the criminal justice system. The AJC strongly urge the Victorian Government to raise the age of criminal responsibility from 10 to at least 14 years of age with a minimum age of incarceration of 16 years.

In July 2020, the Meeting of Attorneys-General (MAG) outlined the need for more work to occur *'regarding the need for adequate processes and services for children who exhibit offending behaviour'*. To mark the 12-month anniversary of MAG's delay, the *Smart Justice for Young People* (SJ4YP) Coalition wrote a letter on behalf of 47 organisations advocating for the minimum age of criminal responsibility to be increased from 10 to at least 14 years. In response to a letter from the SJ4YP, the Federal Attorney-General and Chair of MAG, Hon. Michaelia Cash stated that the decision to increase the age of criminal responsibility is a decision for each jurisdiction to make due to the fact that the overwhelming majority of offences committed by children are state and territory, not Commonwealth, offences. It is therefore the responsibility of the Victorian government to raise the age of criminal responsibility. In addition to this, Australia has been urged by 31 United Nations (UN) countries to raise the age through as heard through the Universal Periodic Review, which takes place every five years to review human rights records of all UN member states²⁶.

For the last year, the AJC, Aboriginal community and other key stakeholders and allies have advocated publicly and urged the Attorney-General to increase Victoria's age of criminal responsibility. As raised at the recent Aboriginal Justice Forum 59, the AJC proposed a process similar to the public intoxication legislative reform, the Victorian Government could immediately raise the age and roll out the processes and services across a period of time.

Addressing the disproportionate levels of Aboriginal children and young people in the criminal justice system requires independent commitment from all jurisdictions of Australia. The AJC believe there must be greater investment in evidenced based intervention supports to reduce the likelihood of offending behaviour. The AJC demands that the Victorian Government commit to raising the age of criminal responsibility immediately.

Culturally Safe, community-based early intervention and prevention

There is a need for a fundamental shift from approaches that blame, isolate and punish children and young people towards approaches that promote the social and emotional wellbeing of children. The AJC recommend that this provision is implemented into Victoria's new Youth Justice Act. The AJC Youth Justice Act Working Group has been widely consulted in the development of the standalone Youth Justice Act. As the government commits to a standalone youth justice act the AJC wish to see the legislative and strategic body implement the age of criminal responsibility to at least 14 years, with a minimum age of detention to be 16 years, whilst responding to the broader needs of vulnerable children and young people.

²⁶ Human Rights Law Centre, 8th July 2021, Australia rejects UN call to raise the age of criminal responsibility

Early contact with the justice system is a precursor for future offending behaviour. The *Victorian Aboriginal Affairs Framework 2018-2023* contains an objective to increase Aboriginal participation in culturally safe and effective justice prevention, early intervention, diversion and support programs. We know that expanding and strengthening such programs costs less than incarcerating children and young people and ultimately reduces recidivism by diverting people away from early involvement in the youth justice system²⁷.

Raising the age of criminal responsibility must coincide with preventative measures including early intervention, diversion and rehabilitative/healing and holistic approaches to enhance the wellbeing of children, keeping them strong, safe and resilient in their families and communities. Aboriginal Youth Justice Strategy has had expert input by the AJC and other Aboriginal and justice stakeholders. It aims to strengthen young people's connection to family, community and culture and put in place the interventions and supports needed to reduce offending²⁸.

Community designed and led youth support systems ensure the best care for Aboriginal children and young people. The Koorie Youth Council's Ngaga-dji Report recommends the sustainable resourcing of Aboriginal community organisations to develop youth support systems to care for children in their communities with localised services across health, social and emotional wellbeing, education, family, legal, cultural, and drug and alcohol services²⁹. Ngaga-dji was fundamental in listening to the voices of Aboriginal children in their report to identify a better way of working with children who are involved with the criminal justice system. Along with advocating for raising the age of criminal responsibility to at least 14 years, Ngaga-dji sets overarching ways of working that underpin community led solutions through self-determination, youth participation, with strong connections to culture, family, Elders and communities³⁰.

The findings of the Commissioner for Children and Young People (CCYP) "*Our Youth Our Way Systemic Inquiry into the Over-representation of Aboriginal Children and young people in Victoria's Youth Justice System*" sought to understand the lived experience of Aboriginal children and young people in Victoria and the factors contributing to their over-representation in the youth justice system. The Inquiry heard the voices of 93 children and young people to reimagine a system that protects the rights of Aboriginal children and supports them to thrive. It delivered a 600-page report and 75 recommendations to improve the lives, outcomes and futures for at risk Aboriginal children and young people, their families and communities³¹. The Commission found that services led, controlled and delivered by the Aboriginal community have the greatest potential to produce the best outcomes for Aboriginal children and young people in contact with the youth justice system. Like the findings in *Our Youth, Our Way*, the AJC envision a self-determined justice system where Aboriginal communities are actively involved in determining appropriately responses, interventions and programs at key decision-making points in the system³².

During the development of AJA₄, the AJC collaborated with The Australian Centre for Social Innovation (TACSI) to develop the '*First Contact is the Last Contact*' model aimed at preventing unnecessary escalation of contact with the justice system following exposure to violence or crime through healing and community support. This model aims to support young people as soon as they come into contact with the justice system, indirectly, through;

²⁷ Victorian State Government, *Victorian Aboriginal Affairs Framework 2018-2023*

²⁸ Victorian Government – Aboriginal Victoria, 2021, Justice and Safety

²⁹ Koorie Youth Council, *Ngaga-dji Report*, 2018

³⁰ Ibid

³¹ Commission for Children and Young People, *Our youth, our way: Inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system, Summary and recommendations*, Commission for Children and Young People, Melbourne, 2021

³² Ibid

- Providing a collection of supports at community, programs and continuum levels;
- Hearing the voice of the young person to inform the process to follow;
- Supporting young people to build healthy and positive relationships;
- Walking alongside young people, providing long term and ongoing support to helping them define boundaries, and get them connected to culture; and
- Keeping young people connected to support networks and understanding who can advocate for them³³

Aboriginal Self-Determined models such as '*First Contact as Last Contact*' has the potential to support a child's connection to culture, family, country and community, which is central to Aboriginal children and young people's social and emotional well-being, as well as strengthening families and communities to respond to and prevent offending behaviour and/or making further contact with the justice system.

Diversion and community-based alternatives to incarceration

Prison does not address offending nor does it reduce recidivism. The most effective justice system and programs invest in comprehensive interventions to divert people away from justice system involvement, provide access to culturally appropriate interventions to rehabilitate, and offer post release support to help prevent future offending. Alternatives to incarceration, such as diversion, cautioning and community support programs delivered by Aboriginal community controlled organisations (ACCOs), community members or Elders are effective in steering people away from offending behaviour by strengthening connections to community, culture and Country. Diversion programs are typically less expensive and more effective than incarceration.

Gender appropriate community based diversionary support options for Aboriginal adults and children and young people is vital in preventing initial contact and reducing further involvement with the justice system. The AJC continue to advocate for longer-term funding for the Victoria Police Koori Youth Cautioning Program so that it can be delivered across more sites.

Recently and in the 2021-22 budget, the Victorian Government has made significant investments in expanding the capacity of prisons and youth justice facilities. Including the building of 106 new cells at the Dame Phyllis Frost Centre (DPFC) at a cost of \$188.9 million. On the 12th March 2021, it was recorded that there were 384 women in DPFC, signifying a 15.7 per cent decrease from the same time in 2020³⁴. This decrease in imprisonment can be attributed to the timing of the COVID-19 pandemic lockdowns in Victoria, during which we saw a reduction of people in custody, and thus signifying that people do not need to be in custody. Rather than increasing prison capacity the AJC recommends redirecting investments to emergency accommodation, public housing, education and community services.

³³ The Australian Centre for Social Innovation (2018), *5 Innovations to Further Self Determination in the Justice System*, Project with the Koori Caucus, AJA4 Steering Committee, Koori Justice Unit and The Australian Centre for Social Innovation, April 2018

³⁴ Department of Justice and Community Safety - Corrections Victoria, 2021, Monthly Prisoner and Offender Statistics, State Government of Victoria

Decriminalisation of public intoxication

The AJC are pleased that the Victorian Government has abolished public intoxication and are committed to implementing a health-based approach. The abolishment of this law was recommended in the 1991 RCIADIC and had been long advocated by the Aboriginal community, due to the harmful and disproportionate impact on Aboriginal people. The AJC hope that the Victorian Government responds to the recommendations made by the Expert Reference Group in their '*Seeing the Clear Light of Day*' report and noting the importance of limiting police involvement in the health-based model, ensuring strict limits on their powers and the need for accountability³⁵.

Bail Reform

Bail reform is another priority for the AJC due to the range of incredible negative harms that disproportionately impact Aboriginal people who are remanded in custody. Bail changes taking effect in 2018 aimed to target men who commit violent offences. However, in practice they have caused mass incarceration of Aboriginal and Torres Strait Islander people where half of all Aboriginal people in custody have been convicted of no crime – 51 per cent of all Aboriginal people in custody as at 11th July 2021 were not sentenced³⁶.

The AJC are particularly concerned about impact of bail laws on Aboriginal women who are remanded in custody, with many on remand for low level, non-violence offences that do not carry a custodial sentence. The majority of these women are the victim/survivors of family and domestic violence and the experience of incarceration cause immense trauma and distress. An additional concern is the ongoing practical impacts of remand on Aboriginal women: they lose their children, their housing, their connection to community and culture when put on remand, even for short periods of time. This has long term negative impacts on Aboriginal women and their families. The AJC recommends that the Victorian must reform its bail laws, shifting its focus from punitive measures that disproportionately impact Aboriginal people, particularly Aboriginal women. In addition to this reform, there needs to be more investments in cultural and gender specific supports for Aboriginal women involved in the justice system.

Sentencing Act Reform

The AJC assert that the Victorian Government ought to invest a greater proportion of its resources into diversion, prevention and early intervention services. However, for those in our community who do face sentencing, Aboriginality ought to be of key consideration in the decision-making process. Sentencing reforms supported by the AJC are outlined further in the following section of this submission.

Improve responses to people in custody and post-release support

Improve social and emotional wellbeing

The AJC recognise that Aboriginal people with poor social and emotional wellbeing are at greater risk of becoming involved with the justice system, and that being involved in the justice system can negatively affect an individual's social and emotional wellbeing as well as that of their family and community. For these reasons, the AJC advocate for policy and practice change and integrated approaches to improve mental health and social and emotional wellbeing of Aboriginal people in both community and justice settings. This should be led by Aboriginal and Torres Strait Islander communities, and ACCOs need to be resourced to deliver such services rather than mainstream providers.

³⁵ Expert Reference Group on Decriminalising Public Drunkenness, '*Seeing the Clear Light of Day*', Report to the Attorney-General, August 2020

³⁶ Department of Justice and Community Safety, Daily Prison Population and Police Cells Report, 11th July 2021

The AJC note the importance of trauma informed victim supports, particularly for children, as a means to reduce the likelihood of overrepresentation. Access to these services ought to be provided to Aboriginal in the community, but also within custody, including youth justice facilities.

The AJC recognise the critical role that Aboriginal Wellbeing Officers (AWOs) play in providing ongoing welfare, advocacy and support for Aboriginal people in prisons and overseeing pre and post release to ensure appropriate supports are in place to transition back into the community. While there has been growth in the numbers of Aboriginal people in prison, there has not been the same growth in the number of AWOs. This means that AWOs have to support a growing number of people within their cultural, social and wellbeing needs.

The AJC is increasingly concerned about the limited numbers of AWOs, which has been attributed to a lack of recruitment and retention. AWO's must be provided with support in order to engage in meaningful and culturally safe employment. In addition, the AJC believe that the current VSP classification does not reflect the personal, cultural and community pressures that is faced by an Aboriginal person in the role of an AWO. These roles must be made more desirable through meeting opportunities for career progression and appropriate remuneration that reflects the heavy cultural load of the AWO.

A long term priority for the AJC is the establishment of a residential diversion program for Aboriginal women similar to Wulgunggo Ngalu Learning Place, which has been incredibly successful. It is envisioned that an Aboriginal designed and operated residential program would provide opportunities for Aboriginal women involved in the justice system to reconnect or further strengthen their connection to culture and to participate in programs and activities to help address the issues that led to their involvement with the justice system, including mental ill health and substance misuse.

Spent Convictions

Another recent policy reform is the Victorian Governments commitment to implementing a spent conviction scheme. The *Spent Convictions Bill 2020*, will remove the unfair barriers faced by Victorians who carry the burden of past convictions that impact gaining employment and training opportunities, access housing, and undertake volunteer work. As we know and outlined in this submission, Aboriginal people are overrepresented and in the criminal justice system and are disproportionately impacted by the stigma and discrimination of having a criminal record. The introduction of this legislation ought to allow for greater participation in community life, employment and education.

In regard to this scheme, the AJC acknowledge the research conducted by the Criminal Records Discrimination Project led by Woor-Dungin. This Aboriginal-led research sought to reduce the negative impacts faced by Aboriginal Victorians face as a result on unregulated disclosure of and inappropriate reliance on old and/or irrelevant criminal history. To strengthen the effectiveness of a legislative spent convictions scheme Woor-Dungin also recommend that the *Equal Opportunity Act 2021* be amended to protect people from discrimination on the basis of an irrelevant criminal record and spent conviction. The AJC supports this recommendation. Like public intoxication reform, the *Spent Convictions Bill 2020* will bring Victoria in line with other Australian jurisdictions. Policy reforms are critical to remove harmful systemic and racist laws and foster greater community participation, wellbeing and safety.

Effective Justice System Oversight

In June 2021, IBAC released their damning *Special Report on Corrections* which highlighted breaches of staff behaviour and systemic corruption occurring across Victorian prisons. People in prison are exposed to mistreatment that include corrections staff engaging in inappropriate strip searches,

interfering with camera recordings, trafficking contraband and the excessive use of force³⁷. This report highlights the need for independent oversight and monitoring of places in detention. The report highlighted issues of corruption which are quite alarming for the AJC. The report highlights just the issues within the prison system its self yet highlights the need for independent oversight and complaints bodies, which are a matter of urgency and priority for the AJC.

The government cannot meet its January 2022 date for successful implementation of the *Optional Protocol to the Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment* (OPCAT). The AJC recommends that the Government must urgently undertake robust, transparent and inclusive consultations with the Victorian Aboriginal community, its representative bodies and ACCOs in the implementation of OPCAT in a culturally appropriate way. The operations, policies, frameworks and governance of the designated and independent detention oversight bodies under OPCAT (National Preventative Mechanisms) must be culturally appropriate and safe for Aboriginal people.

The Victorian Government should legislate for the NPM's mandate, structure, staffing, powers, privileges and immunities. The \$500,000 allocated under the latest Victorian Budget, over four years, is not enough resourcing for the NPM to carry out its mandate effectively. The NPM will be established under OPCAT and must include all places of detention, including places in which people are detained for less than 24 hours, such as police vehicles and cells.

To reiterate, the establishment of an Aboriginal Social Justice Commissioner is necessary due to the lack of independent oversight of Aboriginal justice outcomes. Its role would ensure greater accountability for improving justice outcomes, through the provision of services that protect and uphold Aboriginal human, civil, legal, and cultural rights. This role is a matter of urgency in order to prevent further Aboriginal deaths in custody. The Aboriginal Social Justice Commissioner will:

- Monitor implementation of the Royal Commission into Aboriginal Deaths in Custody
- Improve justice services and outcomes for the Aboriginal community
- Respond to justice services and outcomes for the Aboriginal community
- Assess the potential impacts of Aboriginal people of existing and new justice legislation
- Conduct systemic discrimination investigations and independent reviews to further equality and strengthen human rights protections for Aboriginal people
- Prevent and address discrimination, unconscious bias, vilification toward Aboriginal people through education and engagement with communities, employers, government and the Victorian public
- Advocate for greater respect for Aboriginal rights and equality
- Support Aboriginal people and communities when things go wrong, or human rights are at risk by helping to resolve discrimination complaints and interviewing in court cases

Establishing an Aboriginal Social Justice Commissioner aligns with the Aboriginal communities aspirations for independent oversight of Aboriginal justice outcomes, and greater accountability.

³⁷ Independent Broad-based Anti-corruption Commission, June 2021, Special Report on Corrections – IBAC Operations Rous, Caparra, Nisidia and Molara

The Commissioner could also add value to the work of the Ombudsman and other regulators by creating opportunities for collaboration, partnerships, sharing information and expertise and eradicating duplication. Its establishment remains one of our greatest priorities and we will continue to advocate for its establishment until this goal is achieved.

Independent oversight of Aboriginal justice outcomes, and greater accountability could be enabled through changes to the *Equal Opportunity Act 2010* to allow for the establishment of an additional Commissioner for Aboriginal Social Justice, and changes to the *Charter of Human Rights and Responsibilities Act 2006* so that Aboriginal self-determination is a right protected under the Charter.

An examination of how to ensure that judges and magistrates have appropriate knowledge and expertise when sentencing and dealing with offenders, including an understanding of recidivism and the cause of the crime

The AJC asserted that the Victorian Government ought to invest a greater proportion of its resources into diversion, prevention and early intervention services. However, for those in our community who do face sentencing, Aboriginality ought to be of key consideration in the decision-making process. The justice system exerts a lot of control over the lives of Aboriginal people through legislation and process that rarely includes the voices of Aboriginal people in creating these decision-making processes. Sentencing is a key point in the justice system where overrepresentation can be addressed by utilising culturally appropriate services and considerations of Aboriginality.

The AJC advocate for reform of the Sentencing Act to promote community confidence in sentencing outcomes and offer a range of sentencing options that aim to meet the unique needs of Aboriginal people and communities across Victoria. The AJC support the following reforms to the *Sentencing Act (1991)* and recommend wider sentencing process, that:

- Incorporate an Aboriginal specific sentencing principle that requires Judges and Magistrates to take into account Aboriginality for the purposes of sentencing.
- Implement Aboriginal Community Justice Reports into the sentencing process with the dedicated funding from *Burra Lotpja Dunguludja – Aboriginal Justice Agreement Phase 4*.
- Reintroduce suspended sentences and offer a range of sentencing options, with incarceration as a last resort.
- Reform the *Bail Act* in order to reduce the number of Aboriginal people on remand in Victoria.
- Amend the Sentencing Act so that judicial decision-makers are required to take into account the unique systemic and background factors affecting Aboriginal and Torres Strait Islander people.
- Better utilisation of Section 83 of the Sentencing Act. This 2010 amendment already authorises Victorian Magistrates to use a restorative group conferencing process as a sentencing mechanism in adult cases for "*for any [...] purpose that the court considers appropriate having regard to the offender and the circumstances in the case*".

- Utilise culturally specific and responsive group conferencing as an aid to sentencing across wider range of matters, and that related administrative arrangements provide for skilled facilitators to whom Magistrates can actually refer cases.
- Amend Sentencing Act so that furthering Aboriginal Self-Determination in sentencing is included as a key purpose of the Act.

The Koori Court model, established in 2001, exclusively sentences Aboriginal and Torres Strait Islander peoples and operates in a more culturally safe manner in comparison to mainstream court hearings. The Koori Court puts culture and healing at the forefront through the inclusion of Aboriginal Elders participation in the hearing and ultimately aims to reduce reoffending and avoid incarceration. The AJC recommend Investing in the Koori Court model to expand to all courts will allow Aboriginal and Torres Strait Islander peoples access to appropriate and culturally safe sentencing alternatives.

[The consideration of judicial appointment processes in other jurisdictions, specifically noting the particular skillset necessary for judges and magistrates overseeing specialist courts](#)

[Cultural Competency in Court Services Victoria](#)

The AJC express the importance of cultural competence Judicial officers and the entirety of Court Services Victoria (CSV) staff to better understand socio factors, trauma and systemic oppression impacting Aboriginal people who offend. Cultural advice from the AJC and other self-determining peak bodies must be adhered to when building a much more culturally competent workforce.

The AJC recommend a Cultural Competence Training framework designed by an independent first nations person with close consultation with the AJC and Aboriginal specific legal services. The framework of this cultural competency training must be endorsed by the AJC and slightly modified in consultation with the local community, for example through local RAJAC's, dependant on what community the court resides in. The AJC firmly believe that this training package delivered to all CSV staff and Judicial officer with bi-annual refresher training will support in building a more culturally competent workforce.

It is further recommended that a bench book be developed that contains detailed information of what local Aboriginal organisations and resources that exist to service Aboriginal people who offend. A detailed bench book will support in building on Judicial Officers knowledge of Aboriginal services and can make informed sentencing decisions to avoid incarceration and ultimately less Aboriginal deaths in custody.

Judicial Officers engagement with community must be accounted for prior to appointment in specialist courts, such as the Koori Court. Appointing a judicial officer with no prior knowledge of issues surrounding Aboriginal people can result in uninformed sentencing and avoidable incarceration. The AJC recommend that Judicial Officers appointed to sit on specialists courts, such as the Koori Court, must meet standards set by CSV Elders &/or Respected Persons and the AJC.

[Career Pathways](#)

Greater career opportunities must be invested in to enable Aboriginal people to be employed as a Judicial Officer. Aboriginal people bring a wealth of knowledge expanding over thousands of years and hold skills necessary to understanding the causes reoffending in Aboriginal Communities.

Concluding comments and Recommendations

Policy and legislative changes in Victoria framed to enhance community safety have seen a growth in the number of Victorians under justice supervision, including on remand and serving prison sentences. This includes an increase in Aboriginal people's involvement in the justice system, which has increased at a greater rate than non-Aboriginal people. Progressing Self-Determination as a core policy approach, reforming Victorian policies and legislation is vital in embedding the strongest foundation for future effectiveness of service delivery as they apply to Aboriginal people's interaction with the justice system³⁸.

This submission has outlined some high justice priorities the AJC has advocated for since the commencement of the AJA and has highlighted various opportunities for the Victorian Government to improve the criminal justice system. The Aboriginal Justice Caucus propose a number of reforms to the Victorian justice system to address the urgent issue of Aboriginal & Torres Strait Islander people being the most in the world. These recommendations are:

Recommendation: The Victorian Government must implement all of the 339 recommendations from the Royal Commission into Aboriginal Deaths in Custody 1991 Final Report

Recommendation: The Victorian Government must establish an Aboriginal Social Justice Commissioner as a matter of urgency

Recommendation: Reclassify Aboriginal Wellbeing Officer positions to reflect the specialist skillset Aboriginal people bring to Aboriginal Identified Roles

Recommendation: Corrections Victoria ought to use their budget to conduct a state level analysis to identify systemic issues with retention, recruitment, desirability and supports provided to Aboriginal Identified Roles within Corrections Victoria.

Recommendation: Culturally safe legal services, including VALS and Djirra, must be appropriately and sustainably funded in order to effectively deliver their legal services across the whole state.

Recommendation: The Victorian Government must invest in emergency accommodation, public housing and transitional housing

Recommendation: The Victorian Government must invest in education, community services, and diversionary schemes to drive people away from making contact with the criminal justice system.

Recommendation: The Victorian Government should provide sustainable funding for a residential diversion program for Aboriginal women, similar to Wulunggo Ngalu Learning Place.

Recommendation: Culturally appropriate implementation of the *Optional Protocol to the Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment* (OPCAT) must take place.

Recommendation: The Victorian Government must appropriately fund OPCAT implementation and the government must consult with Aboriginal communities, ACCOs and representative bodies, such as the AJC, on culturally appropriate OPCAT implementation.

Recommendation: Biannual review of OPCAT implementation must take place

³⁸ Victorian Government, 2018 *Burra Lotpja Dunguludja* - Victorian Aboriginal Justice Agreement Phase 4

Recommendation: An increased accountability protocol be introduced against illegal actions conducted by management and staff of corrections facilities.

Recommendation: Victorian bail laws must be reformed immediately, with a focus on reforming the punitive measures that disproportionately affect Aboriginal people, and especially Aboriginal women

Recommendation: To strengthen the effectiveness of a legislative spent convictions scheme Woor-Dungin also recommend that the *Equal Opportunity Act 2021* be amended to protect people from discrimination on the basis of an irrelevant criminal record and spent conviction

Recommendation: Increase cultural and gender specific supports, including culturally appropriate and safe housing, for Aboriginal women involved in the corrections system to obtain bail and avoid remand

Recommendation: The Victorian Government must immediately raise the age of criminal responsibility from 10 to at least 14 years with a minimum age of detention of 16 years of age

Recommendation: The Victorian Government must abolish the use of Statutory Declarations as Confirmation of Aboriginality and fraudulent claims of examined and prosecuted under the Oaths and Affirmations Act.

Recommendation: Victorian Government to fund an independent, well-resourced Aboriginal-led authority to research and process Confirmation of Aboriginal applications.

Recommendation: Incorporate an Aboriginal specific sentencing principle that requires Judges and Magistrates to take into account Aboriginality for the purposes of sentencing.

Recommendation: Implement Aboriginal Community Justice Reports into the sentencing process with the dedicated funding from *Burra Lotpja Dunguludja* – Aboriginal Justice Agreement Phase 4.

Recommendation: Reintroduce suspended sentences and offer a range of sentencing options, with incarceration as a last resort.

Recommendation: Reform the *Bail Act* in order to reduce the number of Aboriginal people on remand in Victoria.

Recommendation: Amend the Sentencing Act so that judicial decision-makers are required to take into account the unique systemic and background factors affecting Aboriginal and Torres Strait Islander people.

Recommendation: Better utilisation of Section 83 of the Sentencing Act. This 2010 amendment already authorises Victorian Magistrates to use a restorative group conferencing process as a sentencing mechanism in adult cases for "*for any [...] purpose that the court considers appropriate having regard to the offender and the circumstances in the case*".

Recommendation: Utilise culturally specific and responsive group conferencing as an aid to sentencing across wider range of matters, and that related administrative arrangements provide for skilled facilitators to whom Magistrates can actually refer cases.

Recommendation: Amend Sentencing Act so that furthering Aboriginal Self-Determination in sentencing is included as a key purpose of the Act

Recommendation: Greater investments in the Koori Court model and other first nation CSV services

Recommendation: Cultural Competency training to be required for all Judicial Officers and CSV Staff with bi-annual refresher training. Training framework must be endorsed by the AJC and tailored to what region the court resides in.

Recommendation: Bench book be developed with detailed information on Aboriginal resources and organisations

Recommendation: Judicial Officers appointed to sit on specialists courts, such as the Koori Courts, must meet standards set by CSV Elders and/or Respected Persons and the AJC.

Recommendation: Greater investment in pathways and career opportunities for Aboriginal people to work in Judicial Officer roles.

Resources

Aboriginal Housing Victoria, 2020, The Victorian Aboriginal Housing and Homelessness Framework, *Mana-na woorn-tyeen maar-takoort: Every Aboriginal person has a home*

Australian Institute of Health and Welfare, May 2020, *Youth Justice in Australia 2018-19*

Bartels, L, 2019, "The growth in remand and its impact on Indigenous over-representation in the criminal justice system", Research Brief 24, *Indigenous Justice Clearinghouse*

Commission for Children and Young People, *Our youth, our way: Inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system, Summary and recommendations*, Commission for Children and Young People, Melbourne, 2021

Crivellaro, G, 9th October 2020, 'Number of Indigenous women in Victorian prisons skyrocketing', National Indigenous Times

Department of Justice and Community Safety - Corrections Victoria, 2021, Monthly Prisoner and Offender Statistics, State Government of Victoria

Department of Justice and Community Safety, Daily Prison Population and Police Cells Report, 11th July 2021

Expert Reference Group on Decriminalising Public Drunkenness, 'Seeing the Clear Light of Day', Report to the Attorney-General, August 2020

Gearin, M, and Michie, F, 2019, Victorian moves to decriminalise public drunkenness on eve of Tanya Day inquest

Hansard, 9th May 1991, Royal Commission into Aboriginal Deaths in Custody

Human Rights and Equal Opportunity Commission (1997) *Bringing Them Home: Report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families*, HREOC, Canberra

Human Rights Law Centre, 8th July 2021, Australia rejects UN call to raise the age of criminal responsibility

Independent Broad-based Anti-corruption Commission, June 2021, Special Report on Corrections – IBAC Operations Rous, Caparra, Nisidia and Molara

Koorie Youth Council, *Ngaga-dji Report*, 2018

Nous Group, Victorian Aboriginal Justice Agreement Phase 2 Evaluation Report, May 2021

Roettger, M., Lockwood, K., and Dennison, S, 2019, "Indigenous People in Australia and New Zealand and the intergeneration effects of incarceration", Research Brief 26, *Indigenous Justice Clearinghouse*

Victorian Government, 2018 *Burra Lotpja Dunguludja* - Victorian Aboriginal Justice Agreement Phase 4

Commission for Children and Young People, *Our Youth, Our Way: Inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system, Summary and Recommendations*, Commission for Children and Young People, Melbourne, 2021

The Australian Centre for Social Innovation (2018), *5 Innovations to Further Self Determination in the Justice System*, Project with the Koori Caucus, AJA4 Steering Committee, Koori Justice Unit and The Australian Centre for Social Innovation, April 2018

The Guardian, 16th May 2021, *Aboriginal deaths in custody reports to be increased to every six months after years of delays*, <https://www.theguardian.com>

Victorian State Government, *Victorian Aboriginal Affairs Framework 2018-2023*

Victorian Legal Aid, 2016, *Care Not Custody Report – A new approach to keep kids in residential care out of the criminal justice system*

Victorian Government, *Aboriginal Justice Agreement Outcomes*, aboriginaljustice.vic.gov.au/outcomes

Victorian Government – Aboriginal Victoria, 2021, *Justice and Safety*

Wills, M, 2018 *Supported housing for prisoners returning to the community: A review of the literature*, Australian Institute of Criminology, Canberra