

KOORI COURTS

A VIEW FROM VICTORIA

**THIRD NATIONAL INDIGENOUS
JUSTICE CEO FORUM**

Brisbane, 21-22 November 2007

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THE VICTORIAN ABORIGINAL JUSTICE AGREEMENT



In 1991 the *Royal Commission into Aboriginal Deaths in Custody Final Report* detailed that the high number of Indigenous deaths in custody was related to Indigenous people's over-representation in the criminal justice system.

This report formed the foundation for a historic partnership agreement between the Victorian Government and the Victorian Aboriginal community in May 2000 – VAJA. The VAJA signalled the commitment to reducing Koori contact with the justice system.



Victorian Aboriginal Justice Agreement (2002)

KOORI COURT LOCATIONS

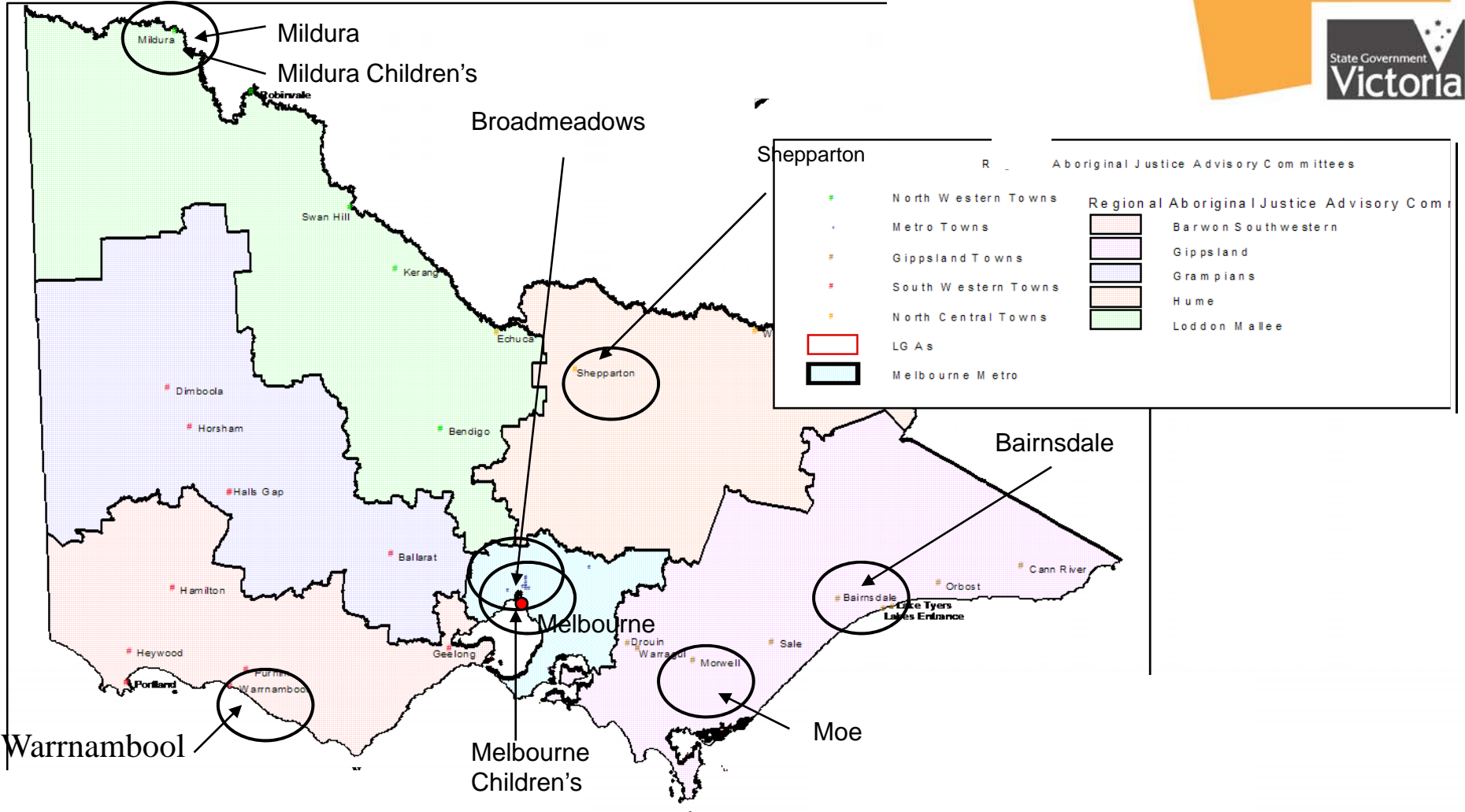


Victorian Koori Courts have been established in:

- Shepparton (October 2002)
- Broadmeadows (April 2003)
- Warrnambool (January 2004)
- Mildura (July 2005)
- Children's Koori Court (October 2005)
- Moe/Latrobe Valley (May 2006)
- Bairnsdale (March 2007)
- Mildura Children's (September 2007)

VICTORIAN KOORI COURTS

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THE ABORIGINAL JUSTICE AGREEMENT - PHASE 2



- AJA1 was reviewed in 2004.

The review recommended that Government and the Koori Community renew their commitment to the Agreement by developing its second phase (AJA2), which was launched in June 2006.

- Three new Koori Courts have been/will be launched under AJA2:
 - Bairnsdale (March 2007)
 - Mildura Children’s Court (September 2007)
 - Swan Hill (June 2008)

KOORI COURT AIMS



Criminal Justice Aims to:

- Make court processes culturally accessible, acceptable and comprehensible to the Aboriginal community
- Reduce perceptions of intimidation and cultural alienation experienced by Aboriginal defendants
- Address Aboriginal over-representation within all levels of the criminal justice system
- Improve Aboriginal access to justice related services
- Promote greater awareness in the Aboriginal community of their civil, legal and political rights

KOORI COURT AIMS



Community Building Aims:

- To increase positive participation by Koori offenders and community
- To increase accountability of Koori community families for Koori offenders
- To promote and increase awareness about community codes of conduct/standards of behaviour
- To increase Aboriginal community ownership by Koori offenders and community

LEGISLATION



- The *Magistrates' Court (Koori Court) Act* (2002), creates a Division of the Magistrates Court and the Children's Koori Court is governed by the *Children, Youth and Families Act* (2005).
- The decision to introduce legislation has assisted with the success of the Koori Courts that have been established.
- The legislation appears to provide a sense of credibility and seriousness for those involved including Police.

JURISDICTION



All offences dealt with in the Magistrates' Court except:

- Sexual offences
- Some offences in relation to family violence

Similarly, offences dealt with in the Children's Koori Court:

- Must be within the jurisdiction of the Criminal Division of the Children's Court
- Specifically excludes sexual offences

The Koori Courts accept Aboriginal defendants who:

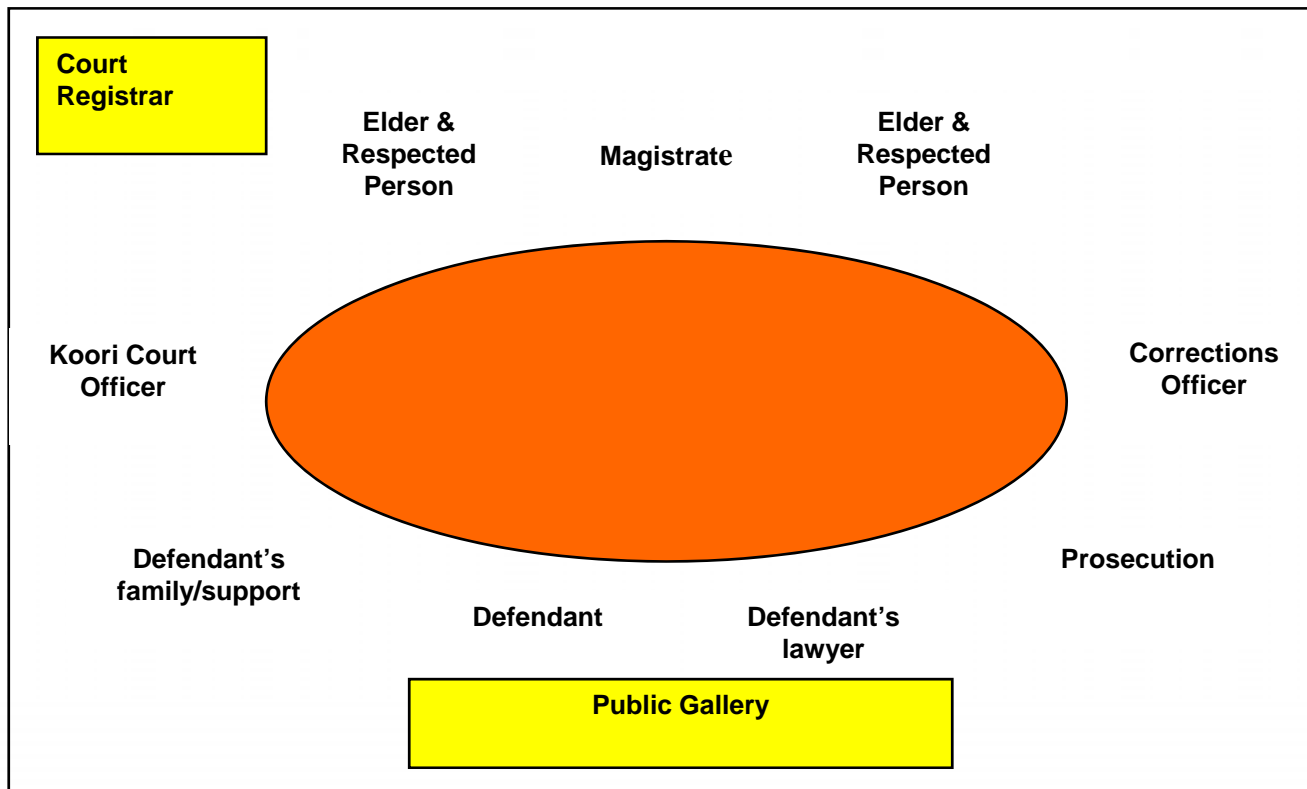
- Are Aboriginal
- Want to have the Koori Court hear their matter
- Plead guilty

KOORI COURT ROOM

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The Koori Court table



KOORI COURT ENVIRONMENT

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Broadmeadows Koori Court



All Koori Courts feature artworks by
Koori artists

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The Aboriginal, Torres Strait and Australian flags are all displayed in the Koori Court room



Participants sit around an oval table during proceedings

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Court rooms are smoked in the traditional fashion



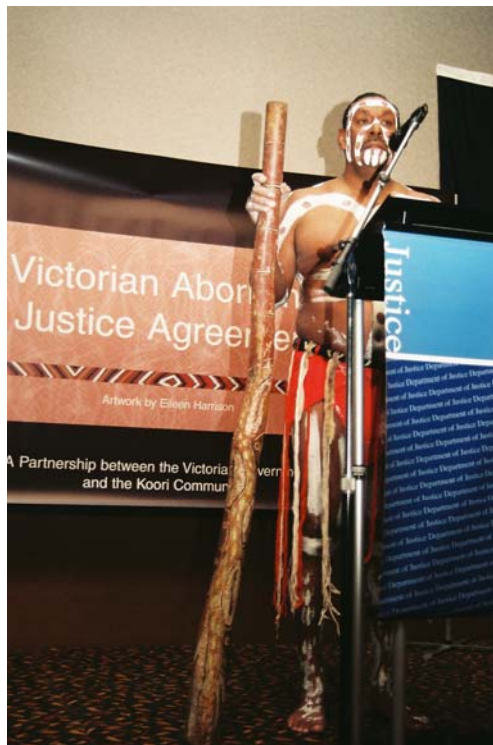
Elders provide cultural advice to the Magistrate

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Supported at all levels



KOORI COURT FEATURES



The Acts stipulate that the Koori Court Division:

- Must exercise its jurisdiction with as little formality and technicality and in a manner that is comprehensible to the defendant and the Koori Community;
- May consider any oral statement made to it by the specially appointed Aboriginal Court *Elders or Respected Persons*;
- May inform itself in any way it thinks fit, including by considering relevant reports, statements or submissions from the Koori Court Officer, Family or Community Members or Support Services.

SENTENCING



The sentencing powers of the Koori Court

- The Court exercises the same sentencing powers that apply in the Criminal Division of the Magistrates and Children's Court.
- The Koori Court is not a separate court with separate sentencing orders.
- The Magistrate is solely responsible for making the sentencing order.

EVALUATION



- Detailed qualitative analysis examining response to the Koori Court from all participants - including offenders and the Koori community
- Detailed quantitative analysis examining a statistical breakdown of the Court's effect on re-offending, breach of orders and the comparative costing of Koori Court proceedings

WHAT HAS BEEN IDENTIFIED



- Acknowledgement of Traditional custodians of the land
- Acknowledgment and respect to *Elders & Respected Persons*
- Gaps in service provision
- Individual / community responsibility
- Community cohesiveness
- Sense of being part of process
- Reinforcement of *Elders & Respected Persons*' authority and position in community

KEY FINDINGS

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The Evaluation Report found Koori Courts have:

- Reduced the levels of recidivism amongst Koori defendants, which in turn has direct ramifications for the levels of over-representation within the prison system

The Shepparton Koori Court had a recidivism rate of approximately 12.5% for the two years of the pilot program and the Broadmeadows Koori Court's re-offending rate was approximately 15.5%. Both of these figures are significantly less than the general level of recidivism which is put at 29.4 %, by the Evaluator

- Achieved reductions in the breach rates for Community Corrections Orders and the rates of Koori defendants failing to appear for their court dates
- Increased the level of Koori community participation in, and ownership of, the administration of law

KEY FINDINGS CONTINUED

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- Provided a forum for the sentencing of defendants that is less alienating for them and which has allowed them to give their account of the reasons for their re-offending
- Provided a mechanism whereby the sentencing process takes into account cultural considerations
- Developed a particularly effective means of integrating the various service providers who may be involved in the tailoring of Community Based Orders
- Reinforced the status and authority of Elders and Respected Persons, thereby strengthening the Koori community, and
- Effectively broadcast the vision of the Koori Courts, such that they have received support from some sectors that had previously been sceptical about initiatives such as the Koori Court

FUTURE DEVELOPMENTS IN THE KOORI COURT



- New Koori Court in Swan Hill in June 2008
- Consultation on Adult Koori Court hearing contested matters
- County Koori Court Project
- Evaluation
 - Children's Koori Court
 - County Koori Court
 - Warrnambool
 - Ongoing evaluation of the Koori Court Model
- Other Projects
 - Professional Development for Elders, Koori Staff & Key Stakeholders
 - Communications Strategy
 - Five year Strategic Plan for the Koori Courts